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VOLUME 1
TRANSCRIPT OF TRIAL
BEFORE THE HONORABLE FREDERICK J. KAPALA, and a jury

For the Government:

For the Defendant:

Also Present:

MR. ALAN H. COOPER

Court Reporter:

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1 (The following proceedings were had in open court, out of
2 the presence and hearing of the jury:)

3 **THE CLERK:** 11 CR 50062-1, U.S.A. v. Dayton Poke.

4 **MR. KARNER:** Good morning, your Honor. Mark Karner and
5 Joe Pedersen on behalf of the United States.

6 **MR. CAVER:** Brendan Caver on behalf of the defendant,
7 Dayton Poke, who's present in court, Judge.

8 **THE COURT:** All right. Case comes before the court for
9 a jury trial. I specifically ordered Mr. Cistrunk to be here at
10 8:30. Have you seen him Mr. Caver?

11 **MR. CAVER:** I have not, Judge. I spoke with his aunt
12 on the telephone just a short while ago. She advised that he
13 was at Blackhawk Housing. He was at 1314 -- I'm blank on the
14 name right now. But he was on his way immediately. He was at
15 her residence.

16 **THE COURT:** All right. I'll issue a warrant for his
17 arrest. It's to issue immediately. He was supposed to be here
18 at 8:30. I was here waiting. You were here waiting. I don't
19 see any reason why he's not here.

20 **MR. CAVER:** Yes, Judge. I tried to make phone contact
21 with him on several occasions using the information that I had
22 been previously provided for Mr. Cistrunk. In addition, my
23 client provided me an alternate method by which to leave
24 Mr. Cistrunk a message. He never returned my phone calls. I
25 also contacted the attorney who the court had previously

1 appointed to represent Mr. Cistrunk, but because he could not
2 disclose any updated contact information, he was unable to give
3 me a new phone number.

4 THE COURT: Do you have to prepare the warrant? Who
5 prepares the warrant?

6 MR. KARNER: I suppose since it's his witness that the
7 defense would.

8 MR. CAVER: Judge, I can prepare a warrant. I have a
9 computer and a printer here.

10 THE COURT: All right. Let's take care of any other
11 matters we have to address. The only other thing that I noticed
12 is that the witness list says Daron Cistrunk is spelled, S-i-s.
13 I always was laboring under the impression it was C-i-s.

14 MR. CAVER: It's C, Judge. I apologize for any error.

15 THE COURT: Do the jurors have a witness list that
16 says S on it?

17 MR. KARNER: Yes.

18 THE COURT: I'll correct that with them when I read the
19 witness list. What else do we have?

20 MR. KARNER: Judge, well, I'd ask that the parties not
21 be allowed to reference any potential testimony by Mr. Cistrunk
22 in opening statements until we know if Mr. Cistrunk is going to
23 assert his Fifth Amendment privilege not to testify.

24 When we were in court for the last time in Poke,
25 Mr. Cooper, his attorney then, informed us that it was likely --

1 I don't think he said it was 100 percent, but it was likely, and
2 at least Mr. Cistrunk's intention at that time was that he was
3 going to assert his Fifth Amendment privilege.

4 I think before he testifies, he ought to be sworn in
5 and presented outside the presence of the jury to determine
6 that, and based on the possibility of his not testifying, the
7 parties shouldn't reference that in opening statement.

8 MR. CAVER: Judge, I don't believe that we have any
9 legal basis to mention in the opening statement any evidence
10 that we don't expect to be fleshed out by the testimony in the
11 case. So, I don't think there's any legal basis for us to make
12 any objection to not mentioning Mr. Cistrunk if we know and if
13 he has expressed that his intention is to assert his right to
14 remain free from self-incrimination based on the Fifth
15 Amendment.

16 I think Mr. Karner is exactly correct. Based on my
17 conversations -- and I had two of them with Mr. Cooper regarding
18 Mr. Cistrunk's expected testimony. And I don't want to battle
19 over unnecessary semantics here, but it was Mr. Cooper's belief
20 that Mr. Cistrunk would take the stand and was likely to assert
21 his Fifth Amendment right. At no time did Mr. Cooper ever tell
22 me that it was his client's intention to assert his Fifth
23 Amendment privilege, only that when he took the stand or was
24 inquired by the judge that he may assert that right.

25 THE COURT: All right. Well, I'll want him to decide

1 out of the presence of the jury. So, one, if I get him here,
2 I'll admonish him

3 MR. CAVER: Thank you, Judge.

4 THE COURT: Tell him what his Fifth Amendment rights
5 are. I hope we get him here sometime during the day. You say
6 you think he's in town?

7 MR. CAVER: Yes. His aunt told me that he was on his
8 way here right now. I had a cordial, yet firm conversation with
9 her on the phone.

10 THE COURT: If he does show up and he claims his Fifth
11 Amendment right, I believe under 804(b)(3), that makes him
12 unavailable. Then if you want to present the conversation he
13 had with Agent Ivancich and this affidavit that I have --

14 MR. CAVER: That's correct.

15 THE COURT: -- I'm going to have to have a hearing --

16 MR. CAVER: That's correct.

17 THE COURT: -- to determine whether the statements have
18 substantial indicia of reliability.

19 MR. CAVER: Yes, sir. Based on my written objection to
20 the prosecution's motion in limine, I believe that the other two
21 factors have been satisfied, and I don't want to have a hearing
22 now, unless the court is inviting argument. But I believe that
23 it will come down to that issue.

24 THE COURT: You look at me quizzically, Mr. Karner.

25 MR. PEDERSEN: Your Honor, I don't believe the first

1 two have been met. In our motion we argue that they haven't
2 established that the statement was against his penal interest at
3 the time he made it. He has to know it was against his penal
4 interest. He believed it was against the law for him, based on
5 his statement to Special Agent Ivancich, to possess a gun
6 without a permit. As a State of Indiana resident, he wasn't
7 required to have a permit or an Illinois FOID card until he had
8 a driver's license for 60 days in Illinois. He's never obtained
9 an Illinois driver's license.

10 Now, the fact that there may be some other crimes that
11 he could have been committing if he had a gun in the car, that
12 is irrelevant to whether or not he knew that it was illegal for
13 him to do that. So, we're not conceding that point.

14 THE COURT: What about if somebody is laboring under
15 the misapprehension that it's against the law, but it's really
16 not?

17 MR. PEDERSEN: It's not a statement against penal
18 interests then. It has to be against his penal interests at the
19 time he makes it, and he has to know that.

20 THE COURT: All right. I'll have to look into that.

21 As far as trustworthiness, the reason we have to have a
22 hearing is because there are certain things that you have
23 mentioned in your motion that need to be established. For
24 example, I recall where somebody proffered that he misidentified
25 the gun and that it had a 17-round magazine, but it really is

1 not the gun he said it was and that it has a different capacity
2 magazine. But the different capacity magazine is not in the
3 record anyplace, and those are the kinds of things that I have
4 to resolve at a hearing.

5 MR. PEDERSEN: That's fine.

6 THE COURT: Okay.

7 MR. KARNER: So, just so I understand clearly, until we
8 have that hearing and the court makes a ruling, are we not to
9 make any reference to that in opening statement?

10 THE COURT: That's correct.

11 MR. PEDERSEN: And, your Honor, some of those issues
12 may be addressed during the testimony of other witnesses if we
13 don't have the hearing prior to -- or until after some of the
14 other witnesses have testified. We anticipate when the gun is
15 introduced into evidence, it will --

16 THE COURT: I want the hearing as soon as possible
17 because I need to work on it. I don't want to go through the
18 testimony, have this hearing, and then have to spend some time
19 working on it. I'd rather be working on it while we're working
20 on the trial.

21 MR. CAVER: Judge, if I may. I understand the court is
22 going to have the hearing at the court's pleasure. I would ask
23 for it to be done as soon as possible. If we can have the
24 hearing before opening statements, I would like to be able to
25 reference that statement.

1 **THE COURT:** I agree. As soon as we can.

2 **MR. CAVER:** Thank you.

3 **THE COURT:** As soon as I can get him here.

4 **MR. CAVER:** I just wanted to make that clear.

5 **THE COURT:** All right. Ready to go?

6 **MR. KARNER:** Well, a couple other issues. On Friday we
7 made a Brady disclosure to the defense, because we just learned
8 it, about a statement made by the defendant to a nurse or nurse
9 practitioner up in the Winnebago County Jail to the effect that
10 he used cocaine. I'm just alerting to the court we're going to
11 contest that admissibility, challenge that admissibility, as
12 well as the relevance of a blood test in June of 2010 where the
13 defendant tested positive for cocaine. A different basis of
14 exclusion are going to be offered. The defendant's statement to
15 the nurse ten days after his arrest we believe is hearsay, and
16 we're still researching that, Judge, and we'll have case law for
17 the court tonight on that.

18 **THE COURT:** All right. I'd like a written motion with
19 supporting authority as soon as possible.

20 **MR. KARNER:** Okay. I can get that to the court tonight
21 after court. And then I just ask that no reference be made in
22 opening statements until that can be resolved.

23 **THE COURT:** Do you have any intention on mentioning
24 that in opening statements?

25 **MR. CAVER:** No, Judge.

1 **THE COURT:** All right.

2 **MR. KARNER:** The last thing, I just want to make sure I
3 don't run afoul of the court's -- I reread the court's order
4 after the final pretrial on the motions that we had. Judge, am
5 I correct now that -- I think it's clear the defense to the
6 cocaine base charge is going to be simple possession, not intent
7 to distribute. With that understanding, may I reference the
8 text messages the court's allowed into evidence in my opening
9 statement?

10 **THE COURT:** Yes.

11 **MR. KARNER:** Thank you.

12 **MR. CAVER:** Judge, I don't believe we have any legal
13 basis to object to that.

14 **THE COURT:** Let's get the jurors here, and we'll start.

15 **MR. CAVER:** Thank you, Judge.

16 **THE COURT:** By the way, you don't contest the fact that
17 if he takes the Fifth Amendment, he's unavailable.

18 **MR. PEDERSEN:** No.

19 **MR. KARNER:** No.

20 **MR. PEDERSEN:** Your Honor, are these courtroom cameras
21 going to stay on the video monitors when the jury comes in?

22 **THE COURT:** No. I think we can turn those off.

23 (Brief pause.)

24 **MR. KARNER:** Judge, Mr. Cistrunk is here.

25 **MR. CAVER:** May I have a moment to go speak with

1 **Mr. Cistrunk?**

2 **THE COURT:** As soon as he gets done being processed.

3 **MR. CAVER:** Thank you, Judge.

4 **(Brief pause.)**

5 **THE COURT:** Mr. Cistrunk, step up here. Right up here
6 in front of the podium I ordered you to be here at 8:30 this
7 morning. I've issued a warrant for your arrest. Tell me why
8 you weren't here.

9 **MR. CISTRUNK:** I just got off the bus. I was trying to
10 catch the bus, and I was on the bus. I was waiting at the bus
11 stop waiting there, and the bus just arrived, and I just got off
12 the bus. I just got off the bus.

13 **THE COURT:** What bus?

14 **MR. CISTRUNK:** The Blackhawk -- Meadow Court. Over
15 there by Meadow Court.

16 **THE COURT:** I'll vacate the warrant.

17 **MR. KARNER:** Should our office stop preparing that
18 then?

19 **THE COURT:** Yes, please.

20 **Mr. Cistrunk,** as you know, you've been summoned to give
21 testimony under oath as a witness in this trial. From what I
22 know about the facts of this case, the answers you give may
23 subject you to criminal liability and prosecution. It's not my
24 decision whether or not you will be prosecuted or charged, but I
25 have to tell you there's a possibility.

1 You have a right under the Fifth Amendment to refuse to
2 give testimony which may incriminate you, and all you have to do
3 to exercise that right is to tell me that you wish to claim your
4 Fifth Amendment privilege, or you may waive that right and
5 answer the questions put to you by the parties.

6 Prior to claiming your right which protects you against
7 compelled self-incrimination, you may discuss this matter with
8 an attorney. If you do not have the funds to hire an attorney,
9 I will appoint an attorney to represent you at no cost to you.
10 Do you understand all those things?

11 MR. CISTRUNK: Yes, sir.

12 THE COURT: What's your preference?

13 MR. CISTRUNK: Plead the Fifth.

14 THE COURT: Do you want to talk to an attorney before
15 you do that?

16 MR. CISTRUNK: Yes, sir.

17 THE COURT: Do you have the funds to hire an attorney?

18 MR. CISTRUNK: No, sir.

19 THE COURT: Susan, I'll appoint an attorney to
20 represent Mr. Cistrunk. Could you call the federal defender and
21 tell them we need someone over here to talk to him?

22 Mr. Cistrunk, have a seat in the back of the courtroom
23 behind your aunt.

24 MR. CISTRUNK: Yes, sir.

25 THE COURT: And don't leave.

1 **MR. CISTRUNK:** I'm not.

2 **MR. CAVER:** Judge, I apologize. I don't mean to
3 interrupt. I believe the government and the defense have a
4 joint motion. I know you told Mr. Cistrunk not to leave, but I
5 would just ask that it be made an order of the court that
6 Mr. Cistrunk not leave the building until he is so released from
7 the court.

8 **THE COURT:** Why don't you want him here?

9 **MR. CAVER:** That he be ordered to remain in the
10 building until he is released.

11 **THE COURT:** All right. Well, I've ordered him to
12 remain in that seat back there.

13 **MR. CAVER:** Yes. I just wanted to make that clear.

14 **THE COURT:** All right.

15 **MR. CAVER:** Your Honor made it clear that he was
16 ordered to remain in the seat. I just wanted to make sure that
17 there is an order that he not --

18 **THE COURT:** Mr. Cistrunk, you're not allowed to leave
19 the building. Do you understand that?

20 **MR. CISTRUNK:** Yes, sir.

21 **MR. CAVER:** Thank you, Judge.

22 **MR. KARNER:** Judge, may I submit our stipulations to
23 the court?

24 **THE COURT:** Yes. Who is going to read the stipulation,
25 or how is it going to be presented to the jury? Are you going

1 to do it sometime at the appropriate time during your case,
2 Mr. Karner?

3 MR. KARNER: I'll do as the court directs me to do. In
4 the past I thought the court read the stipulations at the
5 beginning of the case.

6 THE COURT: The last jury I had the U.S. Attorney
7 wanted to read it during the appropriate time in the case. So,
8 I don't know what your office's preference is.

9 MR. KARNER: That's fine with me, Judge. I can do that
10 first thing after opening statements.

11 THE COURT: Okay.

12 MR. CAVER: Judge, I believe with respect to the
13 defense stipulation that Mr. Karner has also agreed to, it's not
14 going to be an issue until after we have argument as to whether
15 or not the underlying facts to which the stipulation refers to
16 the records that contain them until those facts are determined
17 by the court to be either admissible or inadmissible. That is
18 to say, if the court --

19 THE COURT: I'm not following you.

20 MR. CAVER: Sorry. That was inartfully phrased. We
21 have medical records from the SwedishAmerican Hospital that
22 relate to a drug test that Mr. Cistrunk at one point tested
23 positive for the use of illegal narcotics. Those facts we
24 obviously wish to argue toward a personal possession argument.
25 If the court deems that that is appropriate, then obviously the

1 stipulation will be relevant.

2 But at some point if the court rules that the drug test
3 itself is not relevant and should not be presented to the jury,
4 then our stipulation would become moot, anyway. But we would
5 ask to present our stipulation at the appropriate time, if
6 necessary.

7 THE COURT: So, you can present the other stipulations
8 right after opening statement, and then you'll hold off on the
9 medical records stipulation until you've discussed it with
10 Mr. Caver?

11 MR. KARNER: If that's acceptable to the court.

12 THE COURT: All right.

13 MR. CAVER: Thank you, Judge.

14 THE COURT: You're welcome.

15 (Brief pause.)

16 MR. KARNER: Judge, I forget. I made the corrections
17 dictated by the court on the jury instructions. Does the court
18 have the corrected copy?

19 THE COURT: No, not yet.

20 MR. KARNER: I'll bring those up at the lunch hour
21 then.

22 THE COURT: Thank you.

23 (The following proceedings were had in open court, in the
24 presence and hearing of the jury:)

25 THE CLERK: 11 CR 50062- 1, U.S.A. v. Dayton Poke.

Voir Dire

1 **THE COURT:** Is the government ready to proceed?

2 **MR. KARNER:** Yes, sir.

3 **THE COURT:** Defense ready to proceed?

4 **MR. CAVER:** Yes, your Honor.

5 **THE COURT:** Good morning, ladies and gentlemen. I am
6 Judge Fred Kapala, and I will be presiding at this trial. You
7 are called here today to answer questions concerning your
8 qualifications to act as jurors in this case. Our objective is
9 to select twelve jurors and two alternate jurors who are fair
10 and impartial and can decide this case without prejudice or
11 sympathy for either side.

12 Is there any juror in the courtroom who is having
13 difficulty hearing what I'm saying?

14 (No response.)

15 **THE COURT:** Would all of the prospective jurors stand
16 and be sworn to answer truthfully to all the questions I put to
17 you? The oath is important. You must be truthful in your
18 answers so that the parties can have a fair trial. They are
19 entitled to a fair trial, just as you would be if you were on
20 trial. Would you all raise your right hand?

21 (Jury panel duly sworn.)

22 **THE COURT:** Thanks, folks. You can retake your seat.

23 Please be very attentive to the things I say and the
24 questions that I ask. This case is entitled the United States
25 of America v. Dayton Poke. The defendant in this action is

Voir Dire

1 **Dayton Poke. He is seated at the counsel table to my right.**
2 **Mr. Poke, would you please stand and let the jury see who you**
3 **are and greet them**

4 **THE COURT: Thank you. With him at counsel table is**
5 **his attorney, Brendan Caver.**

6 **MR. CAVER: Good morning, ladies and gentlemen.**

7 **THE COURT: The government is represented by Assistant**
8 **United States Attorneys who are seated at the counsel table to**
9 **my left. They are Assistant United States Attorney Mark Karner.**

10 **MR. KARNER: Good morning, folks.**

11 **THE COURT: And Assistant United States Attorney Joseph**
12 **Pedersen.**

13 **MR. PEDERSEN: Good morning.**

14 **THE COURT: Also at the counsel table are Daniel**
15 **Ivancich, who is a special agent with the Bureau of Alcohol,**
16 **Tobacco, Firearms & Explosives.**

17 **MR. IVANCICH: Good morning.**

18 **THE COURT: And also Lisa Seck, who is a paralegal with**
19 **the United States Attorney's Office, who will provide technical**
20 **assistance from time to time during the course of the trial.**

21 **MS. SECK: Good morning.**

22 **THE COURT: The charges in this case are contained in**
23 **what is called a superseding indictment. The superseding**
24 **indictment has three counts and alleges the following.**

25 **Count 1. On or about July 6th, 2011, at Rockford, in**

Voir Dire

1 the Northern District of Illinois, Western Division, Dayton
2 Poke, defendant herein, knowingly and intentionally did possess
3 with intent to distribute a controlled substance, namely,
4 mixtures containing approximately 1.2 grams of cocaine base in
5 the form of crack cocaine, a Schedule II controlled substance,
6 in violation of Title 21, United States Code, Section 841(a)(1).

7 Count 2 alleges that on or about July 6th, 2011, at
8 Rockford, in the Northern District of Illinois, Western
9 Division, Dayton Poke, defendant herein, previously having been
10 convicted of a crime punishable by imprisonment for a term
11 exceeding one year, knowingly did possess a firearm, namely, a
12 Hi-Point model JCP 40 S&W .40 caliber handgun with serial number
13 X744976, which possession was in and affecting commerce in that
14 the firearm had previously been transported in interstate
15 commerce in violation of Title 18, United States Code, Section
16 922(g)(1) and 924(e)(1).

17 Count 3 alleges that on or about July 6th, 2011, at
18 Rockford, in the Northern District of Illinois, Western
19 Division, Dayton Poke, defendant herein, in furtherance of a
20 drug trafficking crime, namely, the offense described in Count 1
21 of this indictment, did knowingly possess a firearm, namely, a
22 Hi-Point model JCP 40 S&W .40 caliber handgun with serial number
23 X744976, in violation of Title 18, United States Code, Section
24 924(c)(1)(A).

25 You must remember that a superseding indictment is not

Voir Dire

1 to be considered as any evidence against the defendant nor does
2 the law allow you to infer any presumption of guilt against a
3 defendant simply because he has been indicted. The superseding
4 indictment is merely the formal way in which a defendant is
5 placed on trial. The defendant has pled not guilty to all of
6 the counts.

7 Similarly, the mere fact that a defendant has been
8 arrested is not any evidence of guilt. Under the law a
9 defendant is presumed to be innocent of the charges against him
10 This presumption remains with the defendant throughout every
11 stage of the trial and during your deliberations on the verdict
12 and is not overcome unless from all the evidence in the case you
13 are convinced beyond a reasonable doubt that a defendant is
14 guilty.

15 The government has the burden of proving the guilt of a
16 defendant beyond a reasonable doubt, and this burden remains
17 with the government throughout the case. A defendant is not
18 required to prove his innocence nor is he required to present
19 any evidence on his behalf. He may simply rely on the
20 presumption of innocence.

21 Each count of the superseding indictment charges the
22 defendant with having committed a separate offense, and each
23 count should be considered by you separately.

24 You will determine the facts in this case. You will
25 decide which witnesses to believe and how much weight to give to

Voir Dire

1 **their testimony. You will have to resolve any conflicts in the**
2 **evidence. You should not draw any adverse inferences from the**
3 **race, national ancestry, ethnic background, color, or religion**
4 **of a defendant or a witness.**

5 **A witness' status, whether he or she is a law**
6 **enforcement officer, a public official, or in a position of**
7 **prominence in the community, does not make that witness any more**
8 **or less worthy of belief simply because of that status. Jurors**
9 **must give the witnesses for both sides the same attention.**

10 **Because this case, like all others tried in this**
11 **building, is a serious one, it is absolutely essential that**
12 **those of you who are selected to serve as jurors are persons who**
13 **will be fair and impartial to each side, that is, persons who do**
14 **not have any opinion now as you sit here as to the defendant or**
15 **the charges against him, persons who will be able to decide the**
16 **case from the evidence that will be presented here and from the**
17 **law that I will provide to you. It will be the duty of the jury**
18 **to accept the law as contained in my instructions on the law**
19 **whether you agree with it or not. Do not allow sympathy,**
20 **prejudice, fear, or public opinion to influence you.**

21 **It is important to the selection of a fair and**
22 **impartial jury that a juror who finds that the government has**
23 **failed to sustain its burden of proof of beyond a reasonable**
24 **doubt have no reservations about returning a verdict of not**
25 **guilty. It is equally important that a juror who finds that the**

Voir Dire

1 government has sustained its burden of proof of beyond a
2 reasonable doubt have no reservations about returning a verdict
3 of guilty. When you faithfully perform your duty as a juror,
4 you will fulfill that duty whether you find the defendant guilty
5 or not guilty.

6 If you have served as a juror before, please be mindful
7 that this is a separate case, and the rules of law and burden of
8 proof may well be different. Therefore, please do not consider
9 the facts or the law in a previous case, but decide this case on
10 the facts and law applicable to it.

11 You will be asked questions by me concerning matters
12 reflecting on your qualifications to serve as jurors in this
13 case. It is your duty to answer them truthfully and honestly.
14 Their purpose is not to pry into your personal affairs, but are
15 only to ensure that each side receives a fair and impartial
16 trial and a fair and impartial juror.

17 If the answer to a question is embarrassing to you or
18 would make you feel uncomfortable, please indicate that to me,
19 and we will accommodate your answer in a sidebar conference
20 outside the other jurors' hearing.

21 If any of are you excused, there will be no adverse
22 reflection on you in any way. Not all jurors are equally suited
23 to hear all cases. If you are excused, it only means that from
24 the examination we have undertaken, other jurors might better be
25 suited to try this case.

Voir Dire

1 **Jury service is a necessary and important function of**
2 **every citizen. I hope each of you considers this your civic**
3 **duty and you will be willing to serve and not try to avoid this**
4 **duty just because you might wish to spend your time in some**
5 **other way.**

6 **I am going to direct my initial questions to all of the**
7 **prospective jurors in the courtroom as a group. If you have an**
8 **affirmative answer to any of the following questions or if there**
9 **is something regarding the following questions that you wish to**
10 **bring to my attention, please raise your hand. Wait until you**
11 **receive the microphone. Then tell me your name.**

12 **First of all, do any of you disagree with or are they**
13 **any of you who cannot comply with any of the propositions or**
14 **principles I have just stated to you?**

15 **(No response.)**

16 **THE COURT: Are any of you acquainted with the**
17 **defendant, Mr. Poke?**

18 **(No response.)**

19 **THE COURT: Are any of you acquainted with Mr. Caver,**
20 **the defendant's attorney?**

21 **(No response.)**

22 **THE COURT: Are any of acquainted with the Assistant**
23 **United States Attorneys or anyone else sitting at their counsel**
24 **table?**

25 **(No response.)**

Voir Dire

THE COURT: You have all received a list of possible witnesses in this case. The possible witnesses in this case are from the Bureau of Alcohol, Tobacco, Firearms & Explosives, Special Agent Ivancich, Special Agent John Richardson, and Carl McClary. The first two are in Rockford, Illinois. The third one is from Atlanta, Georgia.

From the Rockford City Police Department, all from Rockford, Illinois, Sergeant Joseph Stevens, Detective Kevin Nordberg, Detective Maurice Pruitt, Detective Bruce Voyles, Detective Robert Reffett, Detective David Cone, Detective Jeff Schroeder, Officer Richard Dodd, Officer Eric Jones, Officer Mike Meehan, Officer Rob Hatfield.

From the Winnebago County Sheriff's Police Department, all from Rockford, Illinois, Lieutenant David Huff, Nurse Tracy Runyard.

From the Illinois State Police Crime Laboratory, Sarah Anderson.

From Rockford, Illinois, these civilians. Daron Cistrunk from Gary, Indiana, Amy Favors from Rockford, Illinois, Rachel Hogan from Rockford, Illinois, and Rebecca Hayes from Rockford, Illinois.

My court reporter has ably reminded me that the spelling for Mr. Cistrunk -- that's the first of the civilian witnesses -- is C-i-s-t-r-u-n-k, not S-i-s-t-r-u-n-k.

Are any of you acquainted with any of these people?

Voir Dire

1 **PROSPECTIVE JUROR:** My name is Ed Fujimoto. And Mike
2 Meehan, I think I might have known him before he became an
3 officer.

4 **THE COURT:** Who's that?

5 **PROSPECTIVE JUROR:** Mike Meehan.

6 **THE COURT:** Mike Meehan? And how do you spell your
7 last name, sir?

8 **PROSPECTIVE JUROR:** F, as in Frank, u-j-i-m-o-t-o.

9 **THE COURT:** And that's Officer Meehan?

10 **PROSPECTIVE JUROR:** Yes.

11 **THE COURT:** Thank you, Edward.

12 Are any of you familiar with this case?

13 (No response.)

14 **THE COURT:** Is there anything about the nature of this
15 case that would make it difficult for you to be fair to both
16 sides?

17 (No response.)

18 **THE COURT:** Do any of you or your immediate family
19 members work in a law firm?

20 **PROSPECTIVE JUROR:** My name is Luz Cortinez. I have a
21 brother that's a retired detective and another one that works at
22 forensics in Joliet. I don't know if that would have
23 anything --

24 **THE COURT:** Do they work in a law firm?

25 **PROSPECTIVE JUROR:** Oh, well, no. One was a detective.

Voir Dire

1 **THE COURT:** Okay. They're connected with law
2 enforcement. You have to listen very carefully to my questions.
3 I need to know if there's somebody that you know that works
4 either as a paralegal or an employee of a law firm I will get
5 to that question. I just have to take the questions in order.

6 There was somebody else that raised their right hand.

7 **PROSPECTIVE JUROR:** Tom Wilson. My brother's an
8 attorney in Orlando.

9 **THE COURT:** Your brother's an attorney where?

10 **PROSPECTIVE JUROR:** In Orlando, Florida.

11 **THE COURT:** What kind of law does he practice?

12 **PROSPECTIVE JUROR:** Right now it's family law. It was
13 criminal law. He was a prosecutor.

14 **THE COURT:** Okay. Thank you, Tom

15 Other than military service, have any of you or an
16 immediate family member ever been an officer or employee of the
17 United States Government?

18 **PROSPECTIVE JUROR:** Mary Csenar, C-s-e-n-a-r. My
19 father was a civil servant at the Air Force Academy.

20 **THE COURT:** What did he do, Mary?

21 **PROSPECTIVE JUROR:** He worked in the carpenter's shop.

22 **THE COURT:** When was that?

23 **PROSPECTIVE JUROR:** He probably retired in '90. He's
24 deceased.

25 **THE COURT:** Okay. Thank you, Mary.

Voir Dire

1 **PROSPECTIVE JUROR:** My name is Virginia Allen, and this
2 is in regards to the last question, sir. My daughter works in
3 the State's Attorney's Office. Would that be reflective to what
4 you were asking?

5 **THE COURT:** Yes.

6 **PROSPECTIVE JUROR:** Okay. She works in the State's
7 Attorney's Office in Sycamore.

8 **THE COURT:** What is that, DeKalb County?

9 **PROSPECTIVE JUROR:** Yes, it is.

10 **THE COURT:** Okay. Thank you, Virginia.

11 **PROSPECTIVE JUROR:** Okay.

12 **THE COURT SECURITY OFFICER:** Your Honor, could you
13 repeat the question?

14 **THE COURT:** Okay. Other than military service, have
15 any of you or an immediate family member ever been an officer or
16 employee of the United States Government?

17 **PROSPECTIVE JUROR:** Deb Patterson. I work for the Post
18 Office part-time.

19 **THE COURT:** What do you do for them?

20 **PROSPECTIVE JUROR:** I just try to work two hours every
21 Saturday to get our mail through.

22 **THE COURT:** Okay. Thank you, Deborah.

23 **PROSPECTIVE JUROR:** Sonia Davis. And my sister is also
24 employed at the Post Office in Rock Falls. She's a clerk.

25 **THE COURT:** Could you spell your last name for me,

Voir Dire

1 **please?**

2 **PROSPECTIVE JUROR: Davis, D-a-v-i-s.**

3 **THE COURT: And that's your sister?**

4 **PROSPECTIVE JUROR: Um hm**

5 **THE COURT: Thank you, Sonia.**

6 **PROSPECTIVE JUROR: Jennifer Sus. My father was a mail**
7 **delivery person in Florida.**

8 **THE COURT: Thank you.**

9 **PROSPECTIVE JUROR: Thomas Dunn. I've got a brother**
10 **that's a city carrier in Oregon, Wisconsin, retired rural**
11 **carrier brother from Oregon, Wisconsin, and my father was a**
12 **retired postal worker in Oregon, Wisconsin.**

13 **PROSPECTIVE JUROR: Candy Sextonson. 1979 I was in the**
14 **state police. A long time ago, very long time ago.**

15 **THE COURT: But that wouldn't be the federal**
16 **government, would it? It was Illinois State Police?**

17 **PROSPECTIVE JUROR: Yes.**

18 **THE COURT: I'm asking for an employee of the United**
19 **States Government right now. I will get to that question, I**
20 **promise.**

21 **PROSPECTIVE JUROR: Sorry.**

22 **THE COURT: I just need to take them in order here.**

23 **PROSPECTIVE JUROR: My name is Linda Grady, and my**
24 **brother is a mail carrier in Ohio, Illinois.**

25 **THE COURT: All right. I have never had a jury with so**

Voir Dire

1 many postal connections. There's somebody in back, Tim If I
2 don't get my mail, I know who to call.

3 PROSPECTIVE JUROR: Same thing. Cathy McThenia. And
4 sister-in-law is the postmaster in Keensburg, Illinois.

5 PROSPECTIVE JUROR: Jeff Mickey. My brother-in-law is
6 the U.S. Marshal for the District of Maine. I don't know if
7 that's -- it's my brother-in-law, and I don't know if that
8 counts.

9 THE COURT: First of all, how do you spell your last
10 name?

11 PROSPECTIVE JUROR: Mickey, M i - c - k - e - y.

12 THE COURT: And this is your brother-in-law?

13 PROSPECTIVE JUROR: Yes, correct.

14 THE COURT: And he's a U.S. Marshal in Maine?

15 PROSPECTIVE JUROR: From Maine, yes.

16 THE COURT: Is he -- all right. Thank you, Jeff.

17 Have any of you or an immediate family member or any
18 close friends ever served as a law enforcement officer or ever
19 been employed by a law enforcement agency?

20 PROSPECTIVE JUROR: My brother's a retired detective --

21 THE COURT: Okay.

22 PROSPECTIVE JUROR: -- about a year ago.

23 THE COURT: You're Cortinez; is that right?

24 PROSPECTIVE JUROR: Yes.

25 THE COURT: You know, I don't know how to pronounce

Voir Dire

1 your first name.

2 PROSPECTIVE JUROR: Luz.

3 THE COURT: Luz.

4 PROSPECTIVE JUROR: And then I have another brother.

5 THE COURT: I didn't get that first one. You said you
6 have a brother --

7 PROSPECTIVE JUROR: A detective that retired about a
8 year ago, but he still does work.

9 THE COURT: From what?

10 PROSPECTIVE JUROR: The Rockford Police Department.

11 THE COURT: Okay.

12 PROSPECTIVE JUROR: And then my other brother works as
13 a forensic in Joliet.

14 THE COURT: With the Department of Corrections or
15 with --

16 PROSPECTIVE JUROR: Forensic fingerprinting at Illinois
17 State.

18 THE COURT: Illinois State. All right. Got it. Thank
19 you, Luz.

20 PROSPECTIVE JUROR: My name is Linda Grady, and my
21 brother is a retired parole officer for the Department of
22 Corrections.

23 THE COURT: For the State of Illinois?

24 PROSPECTIVE JUROR: Yes.

25 THE COURT: Thank you, Linda.

Voir Dire

1 **PROSPECTIVE JUROR:** Hi. I'm Theresa Jones. My son is
2 a police officer in Clinton, Iowa.

3 **THE COURT:** Thank you, Theresa.

4 **PROSPECTIVE JUROR:** My name is Kandie Bott, B-o-t-t,
5 and I have two friends -- not what I call super close, but just
6 friends, and one is a retired policeman from the Rockford Police
7 Department, and the other one is my neighbor across the street,
8 who is a deputy sheriff.

9 **THE COURT:** Thanks.

10 **PROSPECTIVE JUROR:** You're welcome.

11 **PROSPECTIVE JUROR:** Patricia Brees. I have two friends
12 who are police officers in Rockford.

13 **PROSPECTIVE JUROR:** Mary Volk, V-o-l-k. I have a
14 family friend who is an officer in Elgin, Illinois.

15 **PROSPECTIVE JUROR:** Candace Sextonson. I was in the
16 State Police in 1979.

17 **THE COURT:** Pardon me?

18 **PROSPECTIVE JUROR:** I was in the State Police in 1979.

19 **THE COURT:** Last name again?

20 **PROSPECTIVE JUROR:** Sextonson.

21 **THE COURT:** Were you on patrol?

22 **PROSPECTIVE JUROR:** No. I was a cadet for two months.

23 **THE COURT:** Okay. Thank you, Candace.

24 **PROSPECTIVE JUROR:** Sonia Davis. And my first husband,
25 who is deceased, was a police officer for three years, from '78

Voir Dire

1 -- '77 'til 80. It was before we were married. But he served
2 that short time.

3 THE COURT: What department was he with?

4 PROSPECTIVE JUROR: He was with the Rock Falls Police
5 Department in Illinois, the city.

6 THE COURT: Okay. Thank you, Sonia.

7 PROSPECTIVE JUROR: Virginia Allen. My husband is a
8 retired police officer about 15 years ago at Northern Illinois
9 University.

10 THE COURT: What did he do there at Northern Illinois?

11 PROSPECTIVE JUROR: He was a patrolman.

12 THE COURT: Like a security officer?

13 PROSPECTIVE JUROR: No, no, no. A real policeman.

14 THE COURT: And this is your husband?

15 PROSPECTIVE JUROR: Yes. And my son-in-law is a
16 retired lieutenant from the DeKalb Police Department. He just
17 retired this year.

18 THE COURT: From what department?

19 PROSPECTIVE JUROR: DeKalb, Illinois.

20 THE COURT: All right. Thank you.

21 PROSPECTIVE JUROR: Thomas Dunn. I've got a nephew
22 that's a lead detective, Wisconsin DNR, out of Madison.

23 THE COURT: That's who, Tom?

24 PROSPECTIVE JUROR: It's my nephew.

25 THE COURT: Your --

Voir Dire

1 PROSPECTIVE JUROR: My nephew.

2 THE COURT: A detective for DNR?

3 PROSPECTIVE JUROR: He's a lead detective with DNR,
4 Department of Natural Resources, up in Madison.

5 THE COURT: What do detectives do for the DNR?

6 PROSPECTIVE JUROR: He's an investigator.

7 THE COURT: I'm just curious. Does he investigate how
8 many fish you catch or --

9 PROSPECTIVE JUROR: He investigates -- he'll back up
10 the warden's field in the field. He goes out and investigates
11 if they --

12 THE COURT: Like if --

13 PROSPECTIVE JUROR: Citations.

14 THE COURT: Like if somebody takes a deer they're not
15 supposed to take?

16 PROSPECTIVE JUROR: That's more for the field people,
17 but he will investigate if there's any firearms or anything like
18 that that have been seized and stuff.

19 THE COURT: Okay. Thanks, Tom

20 PROSPECTIVE JUROR: Jeff Mickey. Aside from my
21 brother-in-law, I also have a friend who was an Illinois State
22 Police officer.

23 THE COURT: Have any of you or an immediate family
24 member had any encounter with a law enforcement officer that
25 would affect your ability to be fair and impartial in this case?

Voir Dire

1 **And I mean a good or a bad encounter. Some law enforcement**
2 **officer did something to you or somebody you know that you**
3 **thought was reprehensible and you don't like law enforcement**
4 **because of that or, on the other side, someone has done**
5 **something great for you, saved your life, and you feel that**
6 **everybody in law enforcement is wonderful and that you would**
7 **never disbelieve anything a law enforcement officer said. So,**
8 **I'm looking for encounters both ways.**

9 **(No response.)**

10 **THE COURT: Do any of you have any objections to or**
11 **disagreement with laws prohibiting a convicted felon from**
12 **possessing a firearm?**

13 **(No response.)**

14 **THE COURT: Are any of you a member of any organization**
15 **that takes a position for or against gun control?**

16 **PROSPECTIVE JUROR: I don't know if this -- Tom Wilson.**
17 **I'm an NRA member. I don't know if that counts towards**
18 **anything.**

19 **THE COURT: Yes, it does count.**

20 **PROSPECTIVE JUROR: Thomas Dunn. I am also an NRA**
21 **member.**

22 **PROSPECTIVE JUROR: Virginia Allen. Our family are**
23 **members of the NRA.**

24 **PROSPECTIVE JUROR: Roger Naylor, and I'm also an NRA**
25 **member.**

Voir Dire

1 **PROSPECTIVE JUROR: David Swanson, NRA member.**

2 **THE COURT: Do any of you own a firearm?**

3 **PROSPECTIVE JUROR: I have the FOID card, and I have a**
4 **pistol.**

5 **THE COURT: All right. Could I have your name, please?**

6 **PROSPECTIVE JUROR: Brenda Byrne Wilson.**

7 **PROSPECTIVE JUROR: My name is Linda Grady, and I have**
8 **a FOID card. My husband and I own some guns.**

9 **THE COURT: Thank you.**

10 **PROSPECTIVE JUROR: I'm Kathy Morris. I have a FOID**
11 **card and a handgun, and my husband has another type of gun. I**
12 **don't know what it is.**

13 **PROSPECTIVE JUROR: Tom Wilson. I also have a FOID**
14 **card, and I own several guns.**

15 **PROSPECTIVE JUROR: Deb Patterson. I have a FOID card,**
16 **and my husband and I have guns. Not a lot. Just guns.**

17 **PROSPECTIVE JUROR: Martin Hadley. And I have a few**
18 **guns. I have a FOID card.**

19 **PROSPECTIVE JUROR: Matthew Landis. I have a FOID card**
20 **and several guns.**

21 **PROSPECTIVE JUROR: Candy Sextonson. I have a FOID**
22 **card, and my husband and I own several guns.**

23 **THE COURT: I hope none of you have these guns with**
24 **you.**

25 **PROSPECTIVE JUROR: David Swanson. I own several guns.**

Voir Dire

1 **PROSPECTIVE JUROR:** Peggy Leverton, and I have had a
2 **FOID card, and we have a few guns.**

3 **THE COURT:** Was it Peggy?

4 **PROSPECTIVE JUROR:** Peggy.

5 **THE COURT:** And --

6 **PROSPECTIVE JUROR:** Leverton, L-e-v-e-r-t-o-n.

7 **THE COURT:** Thank you, Peggy.

8 **PROSPECTIVE JUROR:** Brenda Hoffman, and I have a FOID
9 card and several guns.

10 **PROSPECTIVE JUROR:** My name is Maurice L. Bowdry. I
11 have a FOID card, and I own a handgun and a .20 gauge shotgun.

12 **THE COURT:** Could you spell your last name for me,
13 Maurice?

14 **PROSPECTIVE JUROR:** Yes. B-o-w-d-r-y, like "bow dry."

15 **THE COURT:** Thank you, Maurice.

16 **PROSPECTIVE JUROR:** Roger Naylor. Gun owner, FOID card
17 carrier, and concealed carry carrier.

18 **PROSPECTIVE JUROR:** Thomas Dunn. FOID card holder,
19 handgun, shotguns, rifles.

20 **PROSPECTIVE JUROR:** Jeff Mickey. I had two guns, and I
21 surrendered those to my brother.

22 **THE COURT:** Do any of you have any objections to or
23 disagreement with laws prohibiting the possession, use, and/or
24 distribution of controlled substances?

25 **(No response.)**

Voir Dire

1 **THE COURT:** Are any of you a member of any organization
2 that takes a position for or against the legalized use or
3 possession of controlled substances?

4 (No response.)

5 **THE COURT:** Do any of you have any moral, religious, or
6 ethical belief that would prevent you from deciding the guilt or
7 innocence of another person?

8 (No response.)

9 **THE COURT:** Have any of you or any member of your
10 immediate family had any experience with anyone from the Federal
11 Bureau of Alcohol, Tobacco, Firearms & Explosives or the
12 Rockford Police Department that would affect your ability to
13 consider the testimony of employees from those law enforcement
14 agencies in the same manner as you would any other credible
15 witness?

16 **PROSPECTIVE JUROR:** Terry Easley. My son when he was
17 13 rode with some boys that put a bomb in the principal's yard.
18 It was a joke, but they got in trouble.

19 **THE COURT:** Okay. Spell your last name.

20 **PROSPECTIVE JUROR:** E-a-s-l-e-y.

21 **THE COURT:** Thank you, Terry.

22 Have any of you or an immediate family member ever been
23 involved in a lawsuit or any other type of legal proceeding with
24 the federal government or with any federal agency?

25 (No response.)

Voir Dire

1 **THE COURT:** Do any of you have any physical condition
2 which requires some special accommodation that will enable you
3 to serve as a juror in this case?

4 **PROSPECTIVE JUROR:** Brenda Byrne Wilson. I have
5 restless legs, and my workplace accommodates my need to stand.
6 So, I don't know if that can be accommodated here or not.

7 **THE COURT:** Oh, certainly. If you're in the jury box
8 and you need to stand up and move around -- in fact, Brenda, if
9 you're selected, we'll probably put you at the end.

10 **PROSPECTIVE JUROR:** Okay. Great.

11 **THE COURT:** And so that way you can get up and move
12 around whenever you need to.

13 **PROSPECTIVE JUROR:** All right.

14 **THE COURT:** I want to make this experience as
15 comfortable as I can for all of you.

16 **PROSPECTIVE JUROR:** All right. Thank you.

17 **THE COURT:** You're welcome.

18 Do any of you have any physical condition which would
19 prohibit your ability to serve as a juror in this case?

20 (No response.)

21 **THE COURT:** Do any of you have any personal, moral, or
22 religious beliefs that would prevent you from determining the
23 guilt or innocence of a person accused of a crime?

24 (No response.)

25 **THE COURT:** Is there any one of you who will not follow

Voir Dire

1 **my instructions even if you disagree with them?**

2 **(No response.)**

3 **THE COURT: We estimate the trial in this case may last**
4 **about three days. Will this fact make it impossible for any one**
5 **of you to be fair to both sides or to serve as a juror?**

6 **(No response.)**

7 **THE COURT: Is there any reason that any one of you can**
8 **think of now as you sit there why you could not be a fair and**
9 **impartial juror in this case?**

10 **(No response.)**

11 **THE COURT: Have any of you served as a juror in the**
12 **past, either on a trial jury or on a grand jury?**

13 **PROSPECTIVE JUROR: Thomas Dunn.**

14 **THE COURT: You have the record for the person who I**
15 **talked to the most so far this morning. Between you and**
16 **Virginia -- it's a race between you and Virginia. We'll have to**
17 **see at the end who gets the award.**

18 **PROSPECTIVE JUROR: I was a juror in Stephenson County.**

19 **THE COURT: Was it a criminal or a civil case?**

20 **PROSPECTIVE JUROR: A criminal.**

21 **THE COURT: Okay. Thank you.**

22 **PROSPECTIVE JUROR: Betty Horn, H-o-r-n. And I served**
23 **on the McHenry County as a juror about 20 years ago. It was a**
24 **civil case.**

25 **PROSPECTIVE JUROR: Jason Bresser. I served as a grand**

Voir Dire

1 juror about maybe six years ago in McHenry County.

2 THE COURT: Thank you.

3 PROSPECTIVE JUROR: Teresa Smith. And I served on a
4 jury in Ogle County about eight years ago.

5 THE COURT: Teresa, was it a civil or criminal case?

6 PROSPECTIVE JUROR: Criminal.

7 PROSPECTIVE JUROR: Candy Sextonson. I was a juror on
8 Boone County for a DUI.

9 THE COURT: When was that?

10 PROSPECTIVE JUROR: About six years ago.

11 THE COURT: Criminal or civil case?

12 PROSPECTIVE JUROR: Criminal. DUI.

13 THE COURT: That counts.

14 PROSPECTIVE JUROR: DUI. Okay.

15 THE COURT: Okay. Thank you.

16 All right. Thanks, folks. The clerk will randomly
17 call twelve of you as prospective jurors. As your name is
18 called, please take a seat in the jury box in the order as
19 directed by the court security officer. As jury selection
20 continues, remaining jurors will then be called to replace
21 excused jurors. Whether or not you are in the jury box, please
22 listen to the questioning of the other jurors so that if you are
23 called to try the case, you will understand the nature of the
24 procedure. After we have a jury of twelve persons, we will
25 proceed to select two alternate jurors. I will talk to you more

Voir Dire

1 **about that later.**

2 **Susan, with that in mind, would you please randomly**
3 **call twelve names?**

4 **THE CLERK: Patricia Brees, B-r-e-e-s. Maurice Bowdry,**
5 **B-o-w-d-r-y. Thomas Wilson, W-i-l-s-o-n. Luz Cortinez,**
6 **C-o-r-t-i-n-e-z. Susan Burke, B-u-r-k-e. Linda Grady,**
7 **G-r-a-d-y. Elizabeth Talarico, T-a-l-a-r-i-c-o. Roger Naylor,**
8 **N-a-y-l-o-r. Celia Zimmerman, Z-i-m-m-e-r-m-a-n. Cathy**
9 **McThenia, M-c-T-h-e-n-i-a. Candace Sextonson,**
10 **S-e-x-t-o-n-s-o-n. Matthew Landis, L-a-n-d-i-s.**

11 **THE COURT: All right. Patricia, I'm going to ask you**
12 **some individual questions. First of all, can you tell me where**
13 **you were raised?**

14 **PROSPECTIVE JUROR: Here in Rockford.**

15 **THE COURT: And where do you live? I don't want an**
16 **address. Just tell me the city you live in.**

17 **PROSPECTIVE JUROR: Rockford.**

18 **THE COURT: Do you live in a house or apartment or**
19 **condominium?**

20 **PROSPECTIVE JUROR: House.**

21 **THE COURT: And who lives there with you?**

22 **PROSPECTIVE JUROR: My husband.**

23 **THE COURT: How long have you lived in that house?**

24 **PROSPECTIVE JUROR: Over 30 years.**

25 **THE COURT: Do you have children?**

Voir Dire

1 **PROSPECTIVE JUROR:** Yes.

2 **THE COURT:** Tell me how many, their names, genders, and
3 occupations. I don't need to know their names.

4 **PROSPECTIVE JUROR:** I have three. A daughter who is a
5 CNA, a son who builds playgrounds, and a daughter who is a
6 preschool teacher and works in retail.

7 **THE COURT:** And what are their ages? The CNA?

8 **PROSPECTIVE JUROR:** She's 45.

9 **THE COURT:** Okay. And your son?

10 **PROSPECTIVE JUROR:** He's 42.

11 **THE COURT:** And the preschool teacher?

12 **PROSPECTIVE JUROR:** 40.

13 **THE COURT:** What do you do for a living?

14 **PROSPECTIVE JUROR:** I take care of my grandson.

15 **THE COURT:** Have you --

16 **PROSPECTIVE JUROR:** I've had daycare in my home, but I
17 just now have my grandson.

18 **THE COURT:** Okay. How long has it been since you've
19 had daycare?

20 **PROSPECTIVE JUROR:** Over 30 years.

21 **THE COURT:** So, you used to have daycare 30 years ago,
22 or you had it during the last 30 years.

23 **PROSPECTIVE JUROR:** The last 30 years.

24 **THE COURT:** The last what?

25 **PROSPECTIVE JUROR:** 30 years.

Voir Dire

1 THE COURT: Does your husband work?

2 PROSPECTIVE JUROR: No, he's retired.

3 THE COURT: Retired from what?

4 PROSPECTIVE JUROR: JL Clark. He was a platemaker
5 there.

6 THE COURT: And how long did he do that?

7 PROSPECTIVE JUROR: 40 years.

8 THE COURT: How far have you gone in school?

9 PROSPECTIVE JUROR: Through high school.

10 THE COURT: Do you have any difficulty reading or
11 understanding English?

12 PROSPECTIVE JUROR: No, hopefully.

13 THE COURT: Have you or an immediate family member ever
14 served in the military?

15 PROSPECTIVE JUROR: No. Well, my father did.

16 THE COURT: Okay. What was that?

17 PROSPECTIVE JUROR: Army Air Corps.

18 THE COURT: What kind of job did he have?

19 PROSPECTIVE JUROR: I have no idea.

20 THE COURT: Have you or an immediate family member ever
21 been involved as a party, witness, or otherwise in a civil or
22 criminal case?

23 PROSPECTIVE JUROR: My son was involved in a court
24 case.

25 THE COURT: In what way?

Voir Dire

1 **PROSPECTIVE JUROR: He was the defendant.**

2 **THE COURT: Defendant. Can you tell me what the charge**
3 **was?**

4 **PROSPECTIVE JUROR: I'm not real sure.**

5 **THE COURT: Did you know whether it was a felony or a**
6 **misdemeanor?**

7 **PROSPECTIVE JUROR: It was a felony, but he was not**
8 **charged with that.**

9 **THE COURT: So, he was charged with a misdemeanor?**

10 **PROSPECTIVE JUROR: Yes.**

11 **THE COURT: Where was it?**

12 **PROSPECTIVE JUROR: Here in Rockford.**

13 **THE COURT: And what was the result of the case? Was**
14 **he convicted?**

15 **PROSPECTIVE JUROR: No.**

16 **THE COURT: Found not guilty?**

17 **PROSPECTIVE JUROR: Not guilty.**

18 **THE COURT: Is there anything about the handling of**
19 **that case that causes you any resentment or bad feelings against**
20 **law enforcement or the court system?**

21 **PROSPECTIVE JUROR: Just that it was a very long and**
22 **drawn out process that shouldn't have been.**

23 **THE COURT: Would that in any way affect your ability**
24 **to be a fair and impartial juror in this case?**

25 **PROSPECTIVE JUROR: If it drags out too long, probably.**

Voir Dire

1 **THE COURT:** Well, it's not going to drag out too long.
2 I'll tell you that. This is federal court. We move fast. So,
3 if it doesn't draw out in a long process --

4 **PROSPECTIVE JUROR:** I think I could be fair.

5 **THE COURT:** All right. Well, I need some assurance
6 from you. What I need you to tell me, Patricia, you need to
7 tell me you will be fair or you won't be fair.

8 **PROSPECTIVE JUROR:** To the best of my ability, I'll be
9 fair.

10 **THE COURT:** All right. Have you or an immediate family
11 member ever been the victim of a crime, whether the person who
12 committed the crime was later charged or not?

13 **PROSPECTIVE JUROR:** Yes.

14 **THE COURT:** Tell me about that.

15 **PROSPECTIVE JUROR:** We had a car stolen out of East
16 High School parking lot, and we had our garage broken into.

17 **THE COURT:** Do you feel that those situations were
18 handled appropriately by the authorities?

19 **PROSPECTIVE JUROR:** Probably as well as could be.

20 **THE COURT:** Were the persons who did this ever caught?

21 **PROSPECTIVE JUROR:** I don't know.

22 **THE COURT:** But nobody has asked you to follow up on
23 any court --

24 **PROSPECTIVE JUROR:** No.

25 **THE COURT:** Do you belong to any clubs or

Voir Dire

1 **organizations?**

2 **PROSPECTIVE JUROR:** No.

3 **THE COURT:** Can you promise me that you'll give the
4 defendant and the government a fair trial?

5 **PROSPECTIVE JUROR:** Yes.

6 **THE COURT:** Okay. Would you pass the microphone -- let
7 me ask you one more thing, Patricia. Is there anything that I
8 haven't asked you that I should be asking you that bears upon
9 your ability to serve as a fair and impartial juror in this
10 case? Nothing comes to mind?

11 **PROSPECTIVE JUROR:** No.

12 **THE COURT:** All right. Maurice, let me talk to you.
13 How old are you?

14 **PROSPECTIVE JUROR:** 62.

15 **THE COURT:** Patricia, I didn't ask you how old you
16 were. Would you tell me?

17 **PROSPECTIVE JUROR:** 68.

18 **THE COURT:** Okay. Maurice, where were you raised?

19 **PROSPECTIVE JUROR:** In Michigan.

20 **THE COURT:** And where do you live now?

21 **PROSPECTIVE JUROR:** In Machesney Park.

22 **THE COURT:** Do you live in a house or an apartment?

23 **PROSPECTIVE JUROR:** In a house.

24 **THE COURT:** How long have you lived in that house?

25 **PROSPECTIVE JUROR:** Three years.

Voir Dire

1 THE COURT: Where did you live before that?

2 PROSPECTIVE JUROR: In Rockford.

3 THE COURT: Did you live in a house in Rockford?

4 PROSPECTIVE JUROR: No. An apartment.

5 THE COURT: How long did you live in the apartment?

6 PROSPECTIVE JUROR: Eleven years.

7 THE COURT: What do you do for a living?

8 PROSPECTIVE JUROR: I'm retired.

9 THE COURT: Retired from where?

10 PROSPECTIVE JUROR: State of Illinois.

11 THE COURT: What did you do for Illinois?

12 PROSPECTIVE JUROR: Psychiatric social work.

13 THE COURT: Where did you work?

14 PROSPECTIVE JUROR: Singer Mental Health Center.

15 THE COURT: And what kind of work did you do? I know
16 you said psychiatric social work, but tell me what specifically
17 you did.

18 PROSPECTIVE JUROR: Specifically, assessments. Did
19 group therapy sessions, attended to financial crisis, such as
20 disability, Social Security, things of that nature.

21 THE COURT: Are you married?

22 PROSPECTIVE JUROR: No.

23 THE COURT: Have you ever been married?

24 PROSPECTIVE JUROR: Yes.

25 THE COURT: When was that?

Voir Dire

1 **PROSPECTIVE JUROR: I was married in '78, divorced in**
2 **'83.**

3 **THE COURT: What does your ex-wife do for a living**
4 **other than a homemaker?**

5 **PROSPECTIVE JUROR: She's an administrator at Michigan**
6 **State University.**

7 **THE COURT: Do you have children?**

8 **PROSPECTIVE JUROR: I have a daughter.**

9 **THE COURT: And how old is she?**

10 **PROSPECTIVE JUROR: 30.**

11 **THE COURT: And what does she do for a living?**

12 **PROSPECTIVE JUROR: She's a fashion -- she's a style**
13 **fashion designer and buyer in Fort Lauderdale.**

14 **THE COURT: How far have you gone in school?**

15 **PROSPECTIVE JUROR: Master's degree.**

16 **THE COURT: In what?**

17 **PROSPECTIVE JUROR: Social work.**

18 **THE COURT: And where did you get that?**

19 **PROSPECTIVE JUROR: At Aurora University in Aurora.**

20 **THE COURT: Don't have any trouble reading or**
21 **understanding English?**

22 **PROSPECTIVE JUROR: No.**

23 **THE COURT: Have you or an immediate family member ever**
24 **served in the military?**

25 **PROSPECTIVE JUROR: I have.**

Voir Dire

1 THE COURT: What capacity?

2 PROSPECTIVE JUROR: U. S. Navy.

3 THE COURT: And when was that?

4 PROSPECTIVE JUROR: '68 to '73.

5 THE COURT: What was your MOS? What kind of job did
6 you have?

7 PROSPECTIVE JUROR: I was chief petty officer.

8 THE COURT: Did you have anything to do with law
9 enforcement or incarceration or corrections?

10 PROSPECTIVE JUROR: No, sir.

11 THE COURT: Maurice, you say you own some guns.

12 PROSPECTIVE JUROR: Yes.

13 THE COURT: What kind of guns do you have?

14 PROSPECTIVE JUROR: I have a handgun, a
15 nine millimeter, and a .20 gauge Browning shotgun.

16 THE COURT: And why do you have them?

17 PROSPECTIVE JUROR: Protection. Personal protection,
18 home.

19 THE COURT: Have you or an immediate family member ever
20 been involved as a party, witness, or otherwise in a civil or
21 criminal case?

22 PROSPECTIVE JUROR: No.

23 THE COURT: Have you or an immediate family member ever
24 been the victim of a crime?

25 PROSPECTIVE JUROR: Yes. I have.

Voir Dire

1 **THE COURT:** And what was that?

2 **PROSPECTIVE JUROR:** Burglary to my car, garage broken
3 into, items taken.

4 **THE COURT:** How long ago was that?

5 **PROSPECTIVE JUROR:** Approximately eight years ago.

6 **THE COURT:** Was the person or persons who did this ever
7 arrested?

8 **PROSPECTIVE JUROR:** Yes.

9 **THE COURT:** And what happened to them?

10 **PROSPECTIVE JUROR:** They were convicted, as far as I
11 know. I was contacted by the State's Attorney in Wisconsin.

12 **THE COURT:** Do you know what the sentence was?

13 **PROSPECTIVE JUROR:** I think it was like probation, more
14 or less. Misdemeanor.

15 **THE COURT:** Do you think that situation was handled
16 appropriately by the authorities?

17 **PROSPECTIVE JUROR:** As best as could be, I think.

18 **THE COURT:** Have you or an immediate family member ever
19 been arrested for a criminal offense other than a minor traffic
20 violation?

21 **PROSPECTIVE JUROR:** No.

22 **THE COURT:** Do you belong to any clubs or
23 organizations?

24 **PROSPECTIVE JUROR:** No.

25 **THE COURT:** Can you promise me that you'll give the

Voir Dire

1 **defendant and the government a fair trial?**

2 **PROSPECTIVE JUROR: Yes.**

3 **THE COURT: Is there any question that I haven't asked**
4 **you that I should be asking you that bears upon your ability to**
5 **serve as a fair and impartial juror?**

6 **PROSPECTIVE JUROR: Not that I can think of at this**
7 **moment.**

8 **THE COURT: All right. Thank you. Nice talking to**
9 **you.**

10 **Thomas, how old are you?**

11 **PROSPECTIVE JUROR: 50.**

12 **THE COURT: And where were you raised?**

13 **PROSPECTIVE JUROR: Markesan, Wisconsin.**

14 **THE COURT: And where do you live now?**

15 **PROSPECTIVE JUROR: Harvard.**

16 **THE COURT: Live in a house?**

17 **PROSPECTIVE JUROR: Yes.**

18 **THE COURT: How long have you lived in that house?**

19 **PROSPECTIVE JUROR: Twelve years.**

20 **THE COURT: Do you have any children?**

21 **PROSPECTIVE JUROR: Yes.**

22 **THE COURT: What are their genders, ages, and**
23 **occupations?**

24 **PROSPECTIVE JUROR: I have a 22-year old daughter**
25 **that's a student, works part-time at a construction company and**

Voir Dire

1 at an apartment complex. I have a 20-year old son who's serving
2 a church mission. And I have a 15-year old son in high school.

3 THE COURT: 15-year old son in school.

4 PROSPECTIVE JUROR: In school.

5 THE COURT: The 15-year old still lives with you then?

6 PROSPECTIVE JUROR: Still lives with me. My daughter
7 lives with me, as well.

8 THE COURT: Where does she go to school?

9 PROSPECTIVE JUROR: She goes to MCC, McHenry Community
10 College.

11 THE COURT: When I hear MCC, I think of Metropolitan
12 Correction Center. But she's in college, right?

13 PROSPECTIVE JUROR: Yes.

14 THE COURT: All right. Are you married?

15 PROSPECTIVE JUROR: Yes, I am

16 THE COURT: And your wife lives at home?

17 PROSPECTIVE JUROR: Lives with me, yes.

18 THE COURT: Does she work outside the home?

19 PROSPECTIVE JUROR: Yes, she does. She's an office
20 manager at Tessler Construction.

21 THE COURT: And what about you? What do you do for a
22 living, Ton?

23 PROSPECTIVE JUROR: I'm an IT project manager with
24 United Airlines.

25 THE COURT: How long have you been doing that?

Voir Dire

1 **PROSPECTIVE JUROR:** That particular job since '97.

2 **THE COURT:** How about your wife? How long has she been
3 an office manager?

4 **PROSPECTIVE JUROR:** Probably 2000.

5 **THE COURT:** Your brother's an Orlando attorney?

6 **PROSPECTIVE JUROR:** Yes.

7 **THE COURT:** And you say he's practicing family law now,
8 but in the past he was a prosecutor?

9 **PROSPECTIVE JUROR:** Yes. When he got out of law
10 school, he got a job in Miami working for the county.

11 **THE COURT:** What is that? Dade County down there?

12 **PROSPECTIVE JUROR:** I don't know. I'm not sure. And
13 he was a prosecutor there. Then he ended up moving up to
14 Orlando and then eventually started his own practice.

15 **THE COURT:** Has he ever done criminal defense, do you
16 know?

17 **PROSPECTIVE JUROR:** I think he may have done some
18 defense work.

19 **THE COURT:** When you get together with him do you talk
20 about his job?

21 **PROSPECTIVE JUROR:** Yeah, I would say so. Just -- I
22 mean, he'll volunteer details of things he's working on.

23 **THE COURT:** Is there anything about those matters that
24 he's discussed with you that would impair your ability to be a
25 fair and impartial juror in this case?

Voir Dire

1 **PROSPECTIVE JUROR:** No, I don't think so.

2 **THE COURT:** You're an NRA member, and you own some
3 firearms.

4 **PROSPECTIVE JUROR:** Yes, I do.

5 **THE COURT:** And why do you own the firearms?

6 **PROSPECTIVE JUROR:** Personal protection. I enjoy
7 target practicing, used to hunt. Haven't hunted in a few years.

8 **THE COURT:** Have you or an immediate family member ever
9 been involved as a party, witness, or otherwise in a civil or
10 criminal case?

11 **PROSPECTIVE JUROR:** No.

12 **THE COURT:** Have you or an immediate family member ever
13 been the victim of a crime?

14 **PROSPECTIVE JUROR:** Yes.

15 **THE COURT:** Can you tell me about that?

16 **PROSPECTIVE JUROR:** I had a motorcycle stolen in
17 probably '96 in California, and then I had my apartment broken
18 into when I lived in Phoenix in the late '80s.

19 **THE COURT:** Was the person or persons who did this ever
20 apprehended?

21 **PROSPECTIVE JUROR:** No, they weren't.

22 **THE COURT:** Pardon me?

23 **PROSPECTIVE JUROR:** No.

24 **THE COURT:** Do you feel it was handled appropriately --
25 that both these situations were handled appropriately by the

Voir Dire

1 **authorities?**

2 **PROSPECTIVE JUROR: To the best of their abilities,**
3 **yeah.**

4 **THE COURT: Have you or an immediate family member ever**
5 **been arrested for a criminal offense?**

6 **PROSPECTIVE JUROR: No.**

7 **THE COURT: Do you belong to any clubs or**
8 **organizations?**

9 **PROSPECTIVE JUROR: Harley Owners Group.**

10 **THE COURT: Okay. And the NRA?**

11 **PROSPECTIVE JUROR: And NRA, yes.**

12 **THE COURT: Can you promise me that you'll give the**
13 **defendant and the government a fair trial?**

14 **PROSPECTIVE JUROR: Yes.**

15 **THE COURT: Anything I don't know about you that I**
16 **should that bears upon your ability to serve as a fair and**
17 **impartial juror?**

18 **PROSPECTIVE JUROR: No.**

19 **THE COURT: Thanks.**

20 **Luz.**

21 **PROSPECTIVE JUROR: Yes.**

22 **THE COURT: Good morning.**

23 **PROSPECTIVE JUROR: Good morning.**

24 **THE COURT: Could you tell me how old you are, please?**

25 **PROSPECTIVE JUROR: 62.**

Voir Dire

1 THE COURT: Where do you live?

2 PROSPECTIVE JUROR: In Rockford.

3 THE COURT: You live in a house?

4 PROSPECTIVE JUROR: Yes, I do.

5 THE COURT: How long have you lived in that house?

6 PROSPECTIVE JUROR: Eight years.

7 THE COURT: Where did you live before that?

8 PROSPECTIVE JUROR: An apartment in Rockford.

9 THE COURT: In Rockford?

10 PROSPECTIVE JUROR: Yes.

11 THE COURT: Where were you raised?

12 PROSPECTIVE JUROR: Here in Rockford.

13 THE COURT: Do you have any children?

14 PROSPECTIVE JUROR: Yes, two daughters.

15 THE COURT: And what are their ages, and what do they
16 do for a living?

17 PROSPECTIVE JUROR: My oldest daughter is 38, and she
18 works with the school, like a teacher's aide.

19 THE COURT: Okay. And the other one?

20 PROSPECTIVE JUROR: Is 35 and she works at McDonald's
21 as a manager.

22 THE COURT: What do you do for a living?

23 PROSPECTIVE JUROR: I'm laid off right now.

24 THE COURT: Laid off from where?

25 PROSPECTIVE JUROR: Joseph Behr & Son.

Voir Dire

1 THE COURT: And what did you do for Joseph Behr & Son?

2 PROSPECTIVE JUROR: Housekeeping.

3 THE COURT: How long did you do that?

4 PROSPECTIVE JUROR: 25 years.

5 THE COURT: Are you married?

6 PROSPECTIVE JUROR: Separated.

7 THE COURT: How long have you been separated?

8 PROSPECTIVE JUROR: Oh, for about three years.

9 THE COURT: And then what does your husband do for a
10 living?

11 PROSPECTIVE JUROR: He's retired.

12 THE COURT: Where did he work?

13 PROSPECTIVE JUROR: He was a laborer.

14 THE COURT: For who?

15 PROSPECTIVE JUROR: A lot of places, I guess.

16 THE COURT: Was he a union laborer?

17 PROSPECTIVE JUROR: No.

18 THE COURT: Or he just --

19 PROSPECTIVE JUROR: Just a regular laborer.

20 THE COURT: Found work and worked.

21 PROSPECTIVE JUROR: Um hm

22 THE COURT: Your brother is a detective for the
23 Rockford Police Department.

24 PROSPECTIVE JUROR: Yes. He retired about a year ago.

25 THE COURT: What kind of work did he do, do you know?

Voir Dire

1 **PROSPECTIVE JUROR:** No, I don't know what department.
2 **He was just a detective.**

3 **THE COURT:** Do you ever talk to him about his work?

4 **PROSPECTIVE JUROR:** Once in awhile he would say
5 **something, but nothing really big.**

6 **THE COURT:** And you have another brother who's --

7 **PROSPECTIVE JUROR:** That's forensic. Fingerprinting in
8 **Joliet.**

9 **THE COURT:** For the Illinois State Police?

10 **PROSPECTIVE JUROR:** Yes.

11 **THE COURT:** Does he work in a crime lab or something
12 **like that?**

13 **PROSPECTIVE JUROR:** I guess like when you apply for a
14 **job, they do the fingerprinting. They send it to Joliet, and he**
15 **does that.**

16 **THE COURT:** Oh, I see. How often do you have contact
17 **with that brother?**

18 **PROSPECTIVE JUROR:** Well, about a month ago we were
19 **together because my mother got sick.**

20 **THE COURT:** Does he talk about his job?

21 **PROSPECTIVE JUROR:** He'll kind of say like -- well, he
22 **sees a lot of different people's names that come up that he has**
23 **to check into. Like my grandson, he needed fingerprinting for**
24 **college, and he says he saw the name and stuff like that. Every**
25 **once in a while.**

Voir Dire

1 **THE COURT:** Never mentioned my name, did he?

2 **PROSPECTIVE JUROR:** I don't think so.

3 **THE COURT:** All right. Good.

4 Is there anything about your relationship with your
5 brothers that would affect your ability to be a fair and
6 impartial juror for this case?

7 **PROSPECTIVE JUROR:** No.

8 **THE COURT:** How far did you go in school?

9 **PROSPECTIVE JUROR:** Twelfth grade.

10 **THE COURT:** High school in Rockford?

11 **PROSPECTIVE JUROR:** I went to West High.

12 **THE COURT:** Do you have any difficulty reading or
13 understanding English?

14 **PROSPECTIVE JUROR:** No.

15 **THE COURT:** Have you or an immediate family member ever
16 served in the military?

17 **PROSPECTIVE JUROR:** I've got a nephew that's in the
18 Army right now.

19 **THE COURT:** A who?

20 **PROSPECTIVE JUROR:** A nephew. It's kind of like he's
21 making it a career. He's only got a few more years to go.

22 **THE COURT:** Good for him

23 Other than -- let me ask you this. Have you or an
24 immediate family member ever been involved as a party, witness,
25 or otherwise in a civil or criminal case?

Voir Dire

1 **PROSPECTIVE JUROR: No.**

2 **THE COURT: Have you or an immediate family member ever**
3 **been the victim of a crime?**

4 **PROSPECTIVE JUROR: No.**

5 **THE COURT: Have you or an immediate family member ever**
6 **been arrested for a criminal offense?**

7 **PROSPECTIVE JUROR: No.**

8 **THE COURT: Do you belong to any clubs or**
9 **organizations?**

10 **PROSPECTIVE JUROR: No.**

11 **THE COURT: Can you promise me that you'll give the**
12 **defendant and the government a fair trial?**

13 **PROSPECTIVE JUROR: Yes.**

14 **THE COURT: Is there anything I don't know about you**
15 **that I should that bears upon your ability to serve as a fair**
16 **and impartial juror?**

17 **PROSPECTIVE JUROR: No.**

18 **THE COURT: Thank you, Luz.**
19 **Susan.**

20 **PROSPECTIVE JUROR: Yes.**

21 **THE COURT: How old are you?**

22 **PROSPECTIVE JUROR: 68.**

23 **THE COURT: And how far have you gone in school?**

24 **PROSPECTIVE JUROR: Twelve.**

25 **THE COURT: Did you graduate?**

Voir Dire

1 PROSPECTIVE JUROR: Yes.

2 THE COURT: From high school?

3 PROSPECTIVE JUROR: High school.

4 THE COURT: In Rockford?

5 PROSPECTIVE JUROR: No. I was raised in Burlington,
6 Wisconsin.

7 THE COURT: Where do you live now?

8 PROSPECTIVE JUROR: Harvard.

9 THE COURT: How long have you lived there?

10 PROSPECTIVE JUROR: Since I got married 48 years ago.

11 THE COURT: Do you live in a house there?

12 PROSPECTIVE JUROR: Yes.

13 THE COURT: Do you have children?

14 PROSPECTIVE JUROR: Two. A boy, he's 47, and a
15 daughter that's 39.

16 THE COURT: What does your son do for a living?

17 PROSPECTIVE JUROR: He works for HSBC.

18 THE COURT: What's that?

19 PROSPECTIVE JUROR: A bank.

20 THE COURT: And how about your daughter?

21 PROSPECTIVE JUROR: My daughter is a stay-at-home mom

22 THE COURT: What about your husband? What does he do
23 for a living?

24 PROSPECTIVE JUROR: He's retired.

25 THE COURT: From where?

Voir Dire

1 PROSPECTIVE JUROR: Dean Foods.

2 THE COURT: And how long did he work there?

3 PROSPECTIVE JUROR: Twenty some years.

4 THE COURT: What did he do for Dean Foods?

5 PROSPECTIVE JUROR: He worked in the cooler.

6 THE COURT: What about you? Do you work outside the
7 home?

8 PROSPECTIVE JUROR: I did. I retired -- it will be a
9 week tomorrow.

10 THE COURT: Oh. And you get to spend it with us.

11 PROSPECTIVE JUROR: I know. I'm so lucky.

12 THE COURT: Where did you retire from?

13 PROSPECTIVE JUROR: A bank in Harvard.

14 THE COURT: How long did you do that?

15 PROSPECTIVE JUROR: Almost 31 years.

16 THE COURT: What did you do for the bank?

17 PROSPECTIVE JUROR: Customer service.

18 THE COURT: Have any difficulty reading or
19 understanding English?

20 PROSPECTIVE JUROR: No.

21 THE COURT: Have you or an immediate family member ever
22 been involved as a party, witness, or otherwise in a civil or
23 criminal case?

24 PROSPECTIVE JUROR: No.

25 THE COURT: Have you or an immediate family member ever

Voir Dire

1 **been the victim of a crime?**

2 **PROSPECTIVE JUROR:** In the early or late seventies, we
3 **had a tavern in Wisconsin, and we were broke into.**

4 **THE COURT:** Was the person or persons who did this --

5 **PROSPECTIVE JUROR:** I don't remember.

6 **THE COURT:** Do you feel it was handled appropriately by
7 **the authorities?**

8 **PROSPECTIVE JUROR:** I guess, yeah.

9 **THE COURT:** Have you or an immediate family member ever
10 **been arrested for a criminal offense?**

11 **PROSPECTIVE JUROR:** No.

12 **THE COURT:** Do you belong to any clubs or
13 **organizations?**

14 **PROSPECTIVE JUROR:** No.

15 **THE COURT:** Can you promise me that you'll give the
16 **defendant and the government a fair trial?**

17 **PROSPECTIVE JUROR:** Yes.

18 **THE COURT:** Anything I should know about you that I
19 **don't that bears upon your ability to serve as a fair and**
20 **impartial juror?**

21 **PROSPECTIVE JUROR:** No.

22 **THE COURT:** Let me talk to Linda for a little bit.
23 **Linda, how old are you?**

24 **PROSPECTIVE JUROR:** 52.

25 **THE COURT:** And where were you raised?

Voir Dire

1 PROSPECTIVE JUROR: In Ohio, Illinois.

2 THE COURT: Where do you live now?

3 PROSPECTIVE JUROR: Anboy, Illinois.

4 THE COURT: And how long have you lived there?

5 PROSPECTIVE JUROR: About twelve years.

6 THE COURT: Live in a house?

7 PROSPECTIVE JUROR: Yes, we do.

8 THE COURT: Who lives in the house with you?

9 PROSPECTIVE JUROR: My husband Jim, my twin daughters
10 that are 14.

11 THE COURT: Do you have any other children outside the
12 home?

13 PROSPECTIVE JUROR: No.

14 THE COURT: And they both go to high school, I assume.

15 PROSPECTIVE JUROR: They're in junior high. They're in
16 eighth grade.

17 THE COURT: What's your husband do for a living?

18 PROSPECTIVE JUROR: He works for Commonwealth Edison
19 and farms.

20 THE COURT: What does he do for Com Ed?

21 PROSPECTIVE JUROR: He's a crew leader now, cable
22 splicer.

23 THE COURT: How long has he been doing that?

24 PROSPECTIVE JUROR: About 25 years.

25 THE COURT: What about you? Do you work outside the

Voir Dire

1 **home?**

2 **PROSPECTIVE JUROR: Yes, I do. I'm a teacher.**

3 **THE COURT: What do you teach?**

4 **PROSPECTIVE JUROR: In Anboy.**

5 **THE COURT: Pardon me?**

6 **PROSPECTIVE JUROR: In Anboy, Illinois. Fourth grade**
7 **teacher.**

8 **THE COURT: Okay. How long have you been doing that?**

9 **PROSPECTIVE JUROR: Teaching in Anboy about 25 years,**
10 **but teaching about 28 overall.**

11 **THE COURT: Where did you get your degree?**

12 **PROSPECTIVE JUROR: St. Ambrose in Davenport, Iowa.**

13 **THE COURT: Do you have any difficulty reading or**
14 **understanding English?**

15 **PROSPECTIVE JUROR: No.**

16 **THE COURT: Have you or an immediate family member ever**
17 **served in the military?**

18 **PROSPECTIVE JUROR: I have a sister who's retired from**
19 **the Air Force who's a recruiter, and my brother is retired.**

20 **THE COURT: She was a what?**

21 **PROSPECTIVE JUROR: She was a nurse and doctor**
22 **recruiter.**

23 **THE COURT: Okay.**

24 **PROSPECTIVE JUROR: And my brother's retired from the**
25 **Army. I'm not sure what he did. I know he played basketball.**

Voir Dire

1 **I think he had another job, but I don't know what it was.**

2 **THE COURT: You say you have another brother then who**
3 **is a retired parole officer?**

4 **PROSPECTIVE JUROR: Yes.**

5 **THE COURT: Where was that?**

6 **PROSPECTIVE JUROR: Well, he was Aurora, but he started**
7 **with the Department of Corrections as a prison guard in Dixon.**

8 **THE COURT: Do you talk to him about his employment?**

9 **PROSPECTIVE JUROR: In the past we did. He's been**
10 **retired about a year and a half.**

11 **THE COURT: Is there anything about that employment or**
12 **your conversations with him that would impair your ability to be**
13 **a fair and impartial juror in this case?**

14 **PROSPECTIVE JUROR: No.**

15 **THE COURT: I want to ask some questions to Luz. Could**
16 **you pass the microphone back down to her, please?**

17 **Luz, your brother is a detective in the Rockford Police**
18 **Department?**

19 **PROSPECTIVE JUROR: Yes.**

20 **THE COURT: And I want to assure that if you and your**
21 **jurors deliberated on this case and you feel the government did**
22 **not sustain its burden of proof beyond a reasonable doubt, would**
23 **you feel embarrassed about that or have to explain that to your**
24 **brother or feel --**

25 **PROSPECTIVE JUROR: No. No.**

Voir Dire

1 **THE COURT:** And let me ask the same question to
2 **Patricia. Patricia, you have friends that are Rockford police**
3 **officers?**

4 **PROSPECTIVE JUROR:** Yes.

5 **THE COURT:** And if you and your fellow jurors
6 **deliberated on this case and you felt that the government failed**
7 **to sustain its burden of proof and you found the defendant not**
8 **guilty of one or all of these charges, do you feel that you**
9 **would have to somehow explain that to them or justify it to**
10 **them?**

11 **PROSPECTIVE JUROR:** No.

12 **THE COURT:** All right. Pass the microphone back up
13 **there to Linda, please.**

14 **Okay, Linda. I'll ask you the same question. If you**
15 **after deliberation felt that the government failed to sustain**
16 **its burden of proof and you found the defendant not guilty,**
17 **would you have to justify that to your brother? Would you feel**
18 **bad about it --**

19 **PROSPECTIVE JUROR:** No.

20 **THE COURT:** -- like you let him down or anything like
21 **that?**

22 **PROSPECTIVE JUROR:** No.

23 **THE COURT:** Have you or an immediate family member ever
24 **been involved as a party, witness, or otherwise in a civil or**
25 **criminal case?**

Voir Dire

1 **PROSPECTIVE JUROR: No.**

2 **THE COURT: Have you or an immediate family member ever**
3 **been the victim of a crime?**

4 **PROSPECTIVE JUROR: Well, we had our -- where we farm**
5 **the machine shed was broke into probably about 20 years ago.**

6 **THE COURT: Was the person or persons who did this ever**
7 **apprehended?**

8 **PROSPECTIVE JUROR: No.**

9 **THE COURT: Do you feel it was handled appropriately by**
10 **the authorities?**

11 **PROSPECTIVE JUROR: Yes.**

12 **THE COURT: Have you or an immediate family member ever**
13 **been arrested for a criminal offense?**

14 **PROSPECTIVE JUROR: No.**

15 **THE COURT: Do you belong to any clubs or**
16 **organizations?**

17 **PROSPECTIVE JUROR: Educational groups and church.**

18 **THE COURT: Why do you own firearms?**

19 **PROSPECTIVE JUROR: Protection, and my husband likes to**
20 **shoot at targets at the farm**

21 **THE COURT: What kind do you have?**

22 **PROSPECTIVE JUROR: I have no idea. I mean, we have a**
23 **handgun, I know, in our safe, but other than that, I'm not -- I**
24 **don't shoot them Recreational shooting. That's not my -- I do**
25 **have a FOID card, though.**

Voir Dire

1 **THE COURT:** Anything I don't know about you that I
2 should that bears upon your ability to serve as a fair and
3 impartial juror?

4 **PROSPECTIVE JUROR:** No.

5 **THE COURT:** Could you pass the microphone down to
6 Elizabeth, please?

7 **Good morning. How old are you, Elizabeth?**

8 **PROSPECTIVE JUROR:** 49.

9 **THE COURT:** And where were you raised?

10 **PROSPECTIVE JUROR:** Joliet.

11 **THE COURT:** Where do you live now?

12 **PROSPECTIVE JUROR:** Crystal Lake.

13 **THE COURT:** How long have you lived in Crystal Lake?

14 **PROSPECTIVE JUROR:** Since 1990.

15 **THE COURT:** Do you live in a house there?

16 **PROSPECTIVE JUROR:** Yes.

17 **THE COURT:** Who lives there with you?

18 **PROSPECTIVE JUROR:** My husband and one son.

19 **THE COURT:** How old is your son?

20 **PROSPECTIVE JUROR:** He's 18.

21 **THE COURT:** Goes to school?

22 **PROSPECTIVE JUROR:** Senior in high school.

23 **THE COURT:** What's your husband do for a living?

24 **PROSPECTIVE JUROR:** A supervisor for Alro Steel in
25 Melrose Park.

Voir Dire

1 THE COURT: How long has he been doing that?

2 PROSPECTIVE JUROR: Ten, maybe twelve years.

3 THE COURT: Do you work outside the home?

4 PROSPECTIVE JUROR: I do.

5 THE COURT: And what do you do?

6 PROSPECTIVE JUROR: I'm a registered nurse. I work at
7 Centegra Specialty Hospital in the in-patient behavioral health.

8 THE COURT: How long have you been doing that?

9 PROSPECTIVE JUROR: That particular department,
10 15 years.

11 THE COURT: How far did you go in school?

12 PROSPECTIVE JUROR: Diploma of nursing.

13 THE COURT: Do you have any difficulty reading or
14 understanding English?

15 PROSPECTIVE JUROR: No.

16 THE COURT: I assume you have other children who live
17 outside the home?

18 PROSPECTIVE JUROR: I have a 25-year old son who's a
19 teacher in St. Charles.

20 THE COURT: Have you or an immediate family member ever
21 served in the military?

22 PROSPECTIVE JUROR: No.

23 THE COURT: Have you or an immediate family member ever
24 been involved as a party, witness, or otherwise in a civil or
25 criminal case?

Voir Dire

1 **PROSPECTIVE JUROR: No.**

2 **THE COURT: Have you or an immediate family member ever**
3 **been the victim of a crime?**

4 **PROSPECTIVE JUROR: No.**

5 **THE COURT: Have you or an immediate family member ever**
6 **been arrested for a criminal offense?**

7 **PROSPECTIVE JUROR: No.**

8 **THE COURT: Do you belong to any clubs or**
9 **organizations?**

10 **PROSPECTIVE JUROR: No.**

11 **THE COURT: Can you promise me that you'll give the**
12 **defendant and the government a fair trial?**

13 **PROSPECTIVE JUROR: Yes.**

14 **THE COURT: Anything I should know about you that I**
15 **don't that bears upon your ability to serve as a fair and**
16 **impartial juror?**

17 **PROSPECTIVE JUROR: My Facebook page would attest to**
18 **that I'm very pro legalization of medical marijuana.**

19 **THE COURT: You're pro what?**

20 **PROSPECTIVE JUROR: Legalization of medical marijuana.**

21 **THE COURT: Does that have any bearing on your**
22 **ability --**

23 **PROSPECTIVE JUROR: No, I don't think so. I just had**
24 **to throw it out there.**

25 **THE COURT: I'd rather know something that I don't need**

Voir Dire

1 to know rather than not know something that I do need to know.
2 So, if there's something that's kind of bothering you and you
3 want to let me know, please advise me. Okay, Elizabeth. Thank
4 you very much. Nice talking to you.

5 Roger. How old are you?

6 PROSPECTIVE JUROR: 65.

7 THE COURT: And where were you raised?

8 PROSPECTIVE JUROR: Wonder Lake, Illinois.

9 THE COURT: Where do you live now?

10 PROSPECTIVE JUROR: Marengo, Illinois.

11 THE COURT: How long have you lived there?

12 PROSPECTIVE JUROR: Since 1979.

13 THE COURT: Live in a house?

14 PROSPECTIVE JUROR: Yes.

15 THE COURT: Who lives there with you?

16 PROSPECTIVE JUROR: My wife.

17 THE COURT: Does she work outside the home?

18 PROSPECTIVE JUROR: We have an office in the house that
19 she works from and administers my company.

20 THE COURT: How long has she been doing that?

21 PROSPECTIVE JUROR: About six years.

22 THE COURT: And what did she do before that?

23 PROSPECTIVE JUROR: She worked as a human resource
24 manager for a staffing company.

25 THE COURT: What's your company?

Voir Dire

1 **PROSPECTIVE JUROR:** My company name?

2 **THE COURT:** I don't need to know the name. I need to
3 know what it does, though.

4 **PROSPECTIVE JUROR:** It is a life safety company. We
5 are a contractor.

6 **THE COURT:** When you say life safety, what does that
7 mean?

8 **PROSPECTIVE JUROR:** Mostly to do with fire alarm and
9 smoke control work, but we also do security work, installation
10 of and quality control for installations of systems.

11 **THE COURT:** Security systems?

12 **PROSPECTIVE JUROR:** At times, yes.

13 **THE COURT:** Residential, commercial?

14 **PROSPECTIVE JUROR:** Mostly commercial.

15 **THE COURT:** How long have you been doing that?

16 **PROSPECTIVE JUROR:** 25 years.

17 **THE COURT:** And what's your connection with firearms?
18 How is your business --

19 **PROSPECTIVE JUROR:** I'm a firearms owner. I target
20 shoot. I hunt. And I also have weapons for protection.

21 **THE COURT:** Okay. Is that connected with your company,
22 though?

23 **PROSPECTIVE JUROR:** It is not.

24 **THE COURT:** You belong to the NRA?

25 **PROSPECTIVE JUROR:** Yes, I do.

Voir Dire

1 **THE COURT:** And you're also --

2 **PROSPECTIVE JUROR:** Township supervisor.

3 **THE COURT:** Pardon me?

4 **PROSPECTIVE JUROR:** A township supervisor in McHenry
5 County.

6 **THE COURT:** I didn't know that, but that's good to
7 know. I was going to ask you about concealed carry. How did
8 you get the authorization to do that?

9 **PROSPECTIVE JUROR:** Out of Utah and also out of
10 Florida. Carry both cards.

11 **THE COURT:** And did I ask you how long you owned your
12 business?

13 **PROSPECTIVE JUROR:** I think you did. 25 years.

14 **THE COURT:** Who lives at home with you?

15 **PROSPECTIVE JUROR:** My wife.

16 **THE COURT:** Do you have children?

17 **PROSPECTIVE JUROR:** I do.

18 **THE COURT:** Could you give me their ages, genders, and
19 occupations?

20 **PROSPECTIVE JUROR:** Two daughters. One's 44. The
21 other is 42. One is a stay-at-home part-time mom Or I should
22 say part-time worker, not a part-time mom

23 **THE COURT:** What is her part-time work?

24 **PROSPECTIVE JUROR:** She works at Platt Hill Nursery in
25 retail.

Voir Dire

1 **THE COURT: All right.**

2 **PROSPECTIVE JUROR: And the other daughter works for**
3 **Sanganon County. She is in the health department working as an**
4 **inspector for the City of Springfield and also Sanganon County.**

5 **THE COURT: All right. How far did you go in school?**

6 **PROSPECTIVE JUROR: High school.**

7 **THE COURT: Where did you go to high school?**

8 **PROSPECTIVE JUROR: Woodstock, Illinois.**

9 **THE COURT: Have any difficulty reading or**
10 **understanding English?**

11 **PROSPECTIVE JUROR: No.**

12 **THE COURT: Have you or an immediate family member ever**
13 **served in the military?**

14 **PROSPECTIVE JUROR: Yes.**

15 **THE COURT: Who?**

16 **PROSPECTIVE JUROR: Myself.**

17 **THE COURT: What did you do?**

18 **PROSPECTIVE JUROR: You asked MDS before. 34B40.**
19 **That's communications.**

20 **THE COURT: For what branch?**

21 **PROSPECTIVE JUROR: That's the Army.**

22 **THE COURT: How long were in you the Army?**

23 **PROSPECTIVE JUROR: I was in there two years.**

24 **THE COURT: What years?**

25 **PROSPECTIVE JUROR: '66 through '68.**

Voir Dire

1 **THE COURT:** Have you or an immediate family member ever
2 been involved as a party, witness, or otherwise in a civil or
3 criminal case?

4 **PROSPECTIVE JUROR:** No.

5 **THE COURT:** Have you or an immediate family member ever
6 been the victim of a crime?

7 **PROSPECTIVE JUROR:** Yes.

8 **THE COURT:** Tell me about that, please.

9 **PROSPECTIVE JUROR:** Home break-in about 20 years ago.

10 **THE COURT:** Were the person or persons who did this
11 ever arrested?

12 **PROSPECTIVE JUROR:** They all were caught.

13 **THE COURT:** And were they prosecuted?

14 **PROSPECTIVE JUROR:** Yes, they were.

15 **THE COURT:** And sentenced?

16 **PROSPECTIVE JUROR:** Yes.

17 **THE COURT:** Do you feel this situation was handled
18 appropriately by the authorities and the court system?

19 **PROSPECTIVE JUROR:** Yes.

20 **THE COURT:** Have you or an immediate family member ever
21 been arrested for a criminal offense?

22 **PROSPECTIVE JUROR:** No.

23 **THE COURT:** Do you belong to any clubs or organizations
24 other than the NRA?

25 **PROSPECTIVE JUROR:** Yes. AOPA.

Voir Dire

1 THE COURT: What's that?

2 PROSPECTIVE JUROR: That's a pilot organization.

3 Aircraft Owners and Pilots Association.

4 THE COURT: You're a pilot?

5 PROSPECTIVE JUROR: Yes, I am

6 THE COURT: What do you fly?

7 PROSPECTIVE JUROR: I'm not current, your Honor.

8 THE COURT: Okay. What did you used to fly?

9 PROSPECTIVE JUROR: 206 Cessna.

10 THE COURT: Recreation?

11 PROSPECTIVE JUROR: Some business, some recreation.

12 THE COURT: Can you promise me that you'll give the
13 defendant and the government a fair trial?

14 PROSPECTIVE JUROR: Yes.

15 THE COURT: Anything I don't know about you that I
16 should that bears upon your ability to serve as a fair and
17 impartial juror?

18 PROSPECTIVE JUROR: No.

19 THE COURT: Okay. Thank you. Could you pass the
20 microphone over to Celia, please?

21 Celia, how old are you?

22 PROSPECTIVE JUROR: I'm 67.

23 THE COURT: And where were you raised?

24 PROSPECTIVE JUROR: Winslow.

25 THE COURT: And where do you live now?

Voir Dire

1 PROSPECTIVE JUROR: Freeport.

2 THE COURT: Do you live in a house?

3 PROSPECTIVE JUROR: Yes.

4 THE COURT: How long have you lived there?

5 PROSPECTIVE JUROR: Three years.

6 THE COURT: Where did you live before that?

7 PROSPECTIVE JUROR: On the farm at Forreston.

8 THE COURT: How long did you live on the farm?

9 PROSPECTIVE JUROR: Forty. Forty years.

10 THE COURT: Okay. Forty or four?

11 PROSPECTIVE JUROR: Forty.

12 THE COURT: Okay. Who lives in your house in Freeport
13 with you?

14 PROSPECTIVE JUROR: My husband.

15 THE COURT: And what does he do for a living?

16 PROSPECTIVE JUROR: He's retired, but we farmed and had
17 a construction business.

18 THE COURT: Okay. For how long?

19 PROSPECTIVE JUROR: Long time.

20 THE COURT: Many years.

21 PROSPECTIVE JUROR: Yes. Forty plus some.

22 THE COURT: All right. Do you help with the farming?

23 PROSPECTIVE JUROR: Yes.

24 THE COURT: Do you have any other jobs outside the
25 home?

Voir Dire

1 PROSPECTIVE JUROR: No.

2 THE COURT: Do you have children?

3 PROSPECTIVE JUROR: We have five.

4 THE COURT: Okay. Ages, genders, and occupations.

5 PROSPECTIVE JUROR: Okay. Four girls and one boy.

6 Christine is 44. Carlene is --

7 THE COURT: I don't need to know the names. Just tell
8 me their ages and occupations.

9 PROSPECTIVE JUROR: Okay. Their occupations, Chris
10 is -- well, 44.

11 THE COURT: You can tell me the name if you want to,
12 but --

13 PROSPECTIVE JUROR: I'm very personal. Okay. She's a
14 mom

15 THE COURT: A mom And how old is she?

16 PROSPECTIVE JUROR: She's 44.

17 THE COURT: Okay.

18 PROSPECTIVE JUROR: And next one is 40.

19 THE COURT: All right. What does she do for a living?

20 PROSPECTIVE JUROR: They work at Normal University with
21 foreign exchange students that come in.

22 THE COURT: Okay.

23 PROSPECTIVE JUROR: The next one is 42, and she is a
24 registered nurse at Corpus Christi, Texas. And the next one is
25 forty --

Voir Dire

1 **THE COURT:** In her 40s?

2 **PROSPECTIVE JUROR:** Yeah. He builds log homes in
3 **Colorado.**

4 **THE COURT:** Okay. Then I need one more daughter.

5 **PROSPECTIVE JUROR:** Yeah. And she's a youth minister
6 **in Princeton, Wisconsin.**

7 **THE COURT:** How far did you go in school?

8 **PROSPECTIVE JUROR:** High school.

9 **THE COURT:** Do you have any difficulty reading or
10 **understanding English?**

11 **PROSPECTIVE JUROR:** No.

12 **THE COURT:** Have you or an immediate family member ever
13 **been involved as a party, witness, or otherwise in a civil or**
14 **criminal case?**

15 **PROSPECTIVE JUROR:** No.

16 **THE COURT:** Have you or an immediate family member ever
17 **been the victim of a crime?**

18 **PROSPECTIVE JUROR:** No.

19 **THE COURT:** Arrested for a crime?

20 **PROSPECTIVE JUROR:** No.

21 **THE COURT:** Do you belong to any clubs or
22 **organizations?**

23 **PROSPECTIVE JUROR:** No.

24 **THE COURT:** Can you promise me that you'll give the
25 **defendant and the government a fair trial?**

Voir Dire

1 PROSPECTIVE JUROR: Yes.

2 THE COURT: Anything I don't know about you that I
3 should know about you that bears upon your ability to serve as a
4 fair and impartial juror?

5 PROSPECTIVE JUROR: No.

6 THE COURT: Okay. Nice talking to you.
7 Cathy Jo or Cathy?

8 PROSPECTIVE JUROR: Just Cathy.

9 THE COURT: How old are you, Cathy?

10 PROSPECTIVE JUROR: 42.

11 THE COURT: And where were you raised?

12 PROSPECTIVE JUROR: Aledo, Illinois.

13 THE COURT: And where do you live now?

14 PROSPECTIVE JUROR: Wonder Lake, Illinois.

15 THE COURT: Live in a house?

16 PROSPECTIVE JUROR: Yes.

17 THE COURT: For how long?

18 PROSPECTIVE JUROR: We've lived there a little over
19 ten years.

20 THE COURT: And who lives there with you?

21 PROSPECTIVE JUROR: My husband and two children.

22 THE COURT: Their genders, ages, and --

23 PROSPECTIVE JUROR: My husband, too?

24 THE COURT: Pardon?

25 PROSPECTIVE JUROR: My husband's age, as well?

Voir Dire

1 **THE COURT:** No, no. Just your children. How many
2 husbands do you have?

3 **PROSPECTIVE JUROR:** Just one. They are a girl who's
4 eight and a boy who's seven.

5 **THE COURT:** Okay. Let's get to your husband now. Does
6 he work outside the home?

7 **PROSPECTIVE JUROR:** Yes.

8 **THE COURT:** What does he do?

9 **PROSPECTIVE JUROR:** Teacher.

10 **THE COURT:** What does he teach?

11 **PROSPECTIVE JUROR:** PE.

12 **THE COURT:** High school?

13 **PROSPECTIVE JUROR:** Middle school.

14 **THE COURT:** And how about you?

15 **PROSPECTIVE JUROR:** I'm a teacher, as well.

16 **THE COURT:** And what do you teach?

17 **PROSPECTIVE JUROR:** I work as the curriculum lead
18 teacher for the district.

19 **THE COURT:** The what?

20 **PROSPECTIVE JUROR:** The curriculum lead teacher.

21 **THE COURT:** What's that mean?

22 **PROSPECTIVE JUROR:** I basically work for the assistant
23 superintendent of curriculum and assessment.

24 **THE COURT:** Where did you get your degree?

25 **PROSPECTIVE JUROR:** Bachelor's at Southern Illinois and

Voir Dire

1 **my Master's at Northeastern Illinois.**

2 **THE COURT: How long has your husband been a PE**
3 **teacher?**

4 **PROSPECTIVE JUROR: 21 years.**

5 **THE COURT: Okay. And then how long have you worked**
6 **for the school district?**

7 **PROSPECTIVE JUROR: I've worked for this district for**
8 **15 years.**

9 **THE COURT: Do you have any difficulty reading or**
10 **understanding English?**

11 **PROSPECTIVE JUROR: No.**

12 **THE COURT: Have you or an immediate family member ever**
13 **served in the military?**

14 **PROSPECTIVE JUROR: A grandfather in World War II and**
15 **an uncle in Vietnam**

16 **THE COURT: What kind of jobs did they have, do you**
17 **know?**

18 **PROSPECTIVE JUROR: Unh-unh.**

19 **THE COURT: Have you or an immediate family member ever**
20 **been involved as a party, witness, or otherwise in a civil or**
21 **criminal case?**

22 **PROSPECTIVE JUROR: No.**

23 **THE COURT: Have you or an immediate family member ever**
24 **been the victim of a crime?**

25 **PROSPECTIVE JUROR: No.**

Voir Dire

1 **THE COURT:** Have you or an immediate family member ever
2 been arrested for a criminal offense?

3 **PROSPECTIVE JUROR:** Yes.

4 **THE COURT:** Can you tell me about that?

5 **PROSPECTIVE JUROR:** I was arrested for suspected DUI.

6 **THE COURT:** And what happened? I don't need to know
7 the facts of the case.

8 **PROSPECTIVE JUROR:** I was not convicted.

9 **THE COURT:** Did you go to trial on it?

10 **PROSPECTIVE JUROR:** No.

11 **THE COURT:** The case was dropped, I assume?

12 **PROSPECTIVE JUROR:** A plea. I got like reckless
13 driving.

14 **THE COURT:** So, you pled guilty to a traffic offense
15 instead of DUI.

16 **PROSPECTIVE JUROR:** Um hm

17 **THE COURT:** How long ago was that?

18 **PROSPECTIVE JUROR:** Thirteen years ago.

19 **THE COURT:** Do you think that was handled appropriately
20 by the authorities?

21 **PROSPECTIVE JUROR:** Yes.

22 **THE COURT:** Do you have any resentment against the
23 court system or the police --

24 **PROSPECTIVE JUROR:** No.

25 **THE COURT:** -- because of that happening? Do you

Voir Dire

1 **belong to any clubs or organizations?**

2 **PROSPECTIVE JUROR: My husband was arrested, too.**

3 **THE COURT: Pardon?**

4 **PROSPECTIVE JUROR: My husband was arrested, as well.**

5 **THE COURT: For what?**

6 **PROSPECTIVE JUROR: I think disturbing the peace.**

7 **THE COURT: Disorderly conduct?**

8 **PROSPECTIVE JUROR: Maybe, yeah.**

9 **THE COURT: Where was that, and when was that?**

10 **PROSPECTIVE JUROR: Our house, and it was probably 15**
11 **years ago, 14.**

12 **THE COURT: And what happened as a result? Was he**
13 **prosecuted?**

14 **PROSPECTIVE JUROR: No.**

15 **THE COURT: Charges dropped?**

16 **PROSPECTIVE JUROR: Yes.**

17 **THE COURT: Is there anything about that experience**
18 **that affects your ability to be a fair and impartial juror here?**

19 **PROSPECTIVE JUROR: No.**

20 **THE COURT: Do you feel it was handled appropriately by**
21 **the authorities?**

22 **PROSPECTIVE JUROR: I still think they were wrong.**
23 **They came into our home, and like the music was playing loud**
24 **outside, and all of a sudden we could see people in our house,**
25 **and we felt like instead of coming around to the back and just**

Voir Dire

1 saying turn your music down, they entered the home. And so, I
2 still think they were wrong in that situation because it scared
3 us. We thought somebody was in there. And so, that's why my
4 husband was angry because pretty much we thought we were being
5 burglarized.

6 THE COURT: Do you have any resentment toward the
7 police because this happened?

8 PROSPECTIVE JUROR: No.

9 THE COURT: Do you belong to any clubs or
10 organizations?

11 PROSPECTIVE JUROR: Yes. National Council of Teachers
12 of Mathematics and Student Council for Exceptional Children.

13 THE COURT: Can you promise me that you'll give the
14 defendant and the government a fair trial?

15 PROSPECTIVE JUROR: Yes.

16 THE COURT: Anything I know about you that I don't know
17 about you that bears upon your ability to serve as a fair and
18 impartial juror?

19 PROSPECTIVE JUROR: No.

20 THE COURT: Figure I know enough --

21 PROSPECTIVE JUROR: Just my line of work, though. I do
22 like -- specifically, I'm a special educator for students
23 with -- most of my experience is with students with social,
24 emotional, and behavior disorders.

25 THE COURT: Okay. Would that affect your ability to be

Voir Dire

1 a fair and impartial juror here --

2 PROSPECTIVE JUROR: No.

3 THE COURT: -- do you think? Okay, Cathy. Nice
4 talking to you.

5 All right. You know, I think I better take a break
6 here. Folks, I'm going to let you leave the courtroom I want
7 to advise you, though, that as jurors in this case, you're not
8 to discuss the case among yourselves or with anyone else or
9 permit anyone to discuss it in your presence. Please feel free
10 to talk with the people that are with you about jobs, families,
11 current events, sports, any kind of casual conversation, but
12 please refrain from any conversation that bears upon anything
13 you know about the case so far.

14 Please do not -- or refrain from any media exposure
15 about this case. I don't have any reason to believe there is
16 going to be any media coverage.

17 Do not make any independent investigation of the case
18 by reading materials or doing any research. If anyone contacts
19 you or attempts to do so, either directly or indirectly, during
20 the break, please notify me immediately. Let's come back at
21 11:00 o'clock.

22 (The following proceedings were had in open court, out of
23 the presence and hearing of the jury:)

24 THE COURT: Tim let's say ten after 11:00. There's a
25 certain matter I have to take care of.

Voir Dire

1 All right. Let's call Mr. Cistrunk up. Mr. Cooper,
2 I'll appoint you as Mr. Cistrunk's attorney for this matter.
3 I've explained to Mr. Cistrunk this morning that he's been
4 summoned as a witness in this trial. From what I know about the
5 case, it may expose him to some criminal liability or
6 prosecution. That's not my call. But there's that possibility.
7 I advised him of his right under the Fifth Amendment to refuse
8 to testify. I also told him that he could waive that right and
9 he could agree to testify. I asked him if he wanted to talk to
10 a lawyer about this decision, and he said he did, and he said he
11 didn't have the funds to hire a lawyer. So, that's why I
12 invited you to come in. Have you had a chance to talk to him
13 yet?

14 MR. COOPER: I have not talked to him this morning, but
15 when I was appointed earlier, at the conclusion when the court
16 discharged me, the court indicated that I should probably talk
17 to him about this possibility.

18 I will say that I have talked to the government about
19 it somewhat. I had a brief conversation. Mr. Caver was kind
20 enough to call me I think late last week to ask me if I were
21 representing him so he didn't have any ethical problems. And
22 so, I know a little bit about the situation. But I had
23 previously talked with Mr. Cistrunk, and he had made known to me
24 his wishes.

25 THE COURT: Okay. And what are his wishes?

Voir Dire

1 **MR. COOPER:** He does not wish to testify. Any matters
2 that relate to this case he will take the Fifth Amendment.

3 **THE COURT:** Okay. Is that true, Mr. Cistrunk?

4 **MR. CISTRUNK:** Yes, sir.

5 **THE COURT:** And you've discussed this with Mr. Cooper?

6 **MR. CISTRUNK:** Yes, sir.

7 **THE COURT:** All right. I don't think there's anything
8 else we need to take up with Mr. Cistrunk then. Mr. Cistrunk,
9 I'd like you --

10 **MR. CAVER:** Judge, I would make request. I don't know
11 if Mr. Cooper would permit me to speak with Mr. Cistrunk in his
12 presence briefly.

13 **THE COURT:** I don't see anything wrong with that.

14 **MR. CAVER:** My client has requested that I --

15 **THE COURT:** All right. Why don't you step outside and
16 do that. I'll wait right here for you.

17 **(Brief pause.)**

18 **MR. KARNER:** Judge, can we be present for that, too?

19 **THE COURT:** Certainly. I'm not ordering you to be
20 present. I'm saying I don't have any objection to it.

21 **MR. KARNER:** Thank you.

22 **DEFENDANT POKE:** I've got an objection to it, your
23 Honor.

24 **THE COURT:** Hold on. Let's -- wait, wait. Let's come
25 back in. Mr. Poke --

Voir Dire

1 **MR. KARNER:** Well, Judge. I'm sorry. But I don't
2 think Mr. Poke has any standing to object.

3 **THE COURT:** Well, maybe he does, maybe he doesn't, but
4 I'd like the attorneys to come back in.

5 **MR. KARNER:** Can I ask Mr. Caver to come back in?

6 **THE COURT:** Yes.

7 (Brief pause.)

8 **THE COURT:** Mr. Caver, the government asked that they
9 be allowed to participate in the conversation. I said I didn't
10 have any objection to it. As they were walking out the door, I
11 said I'm not ordering you to allow him to be there, but I don't
12 have any objection as the judge in this case to do so. But as
13 they were walking out, Mr. Poke said he had an objection.

14 **MR. CAVER:** May I just have a moment, please?

15 **THE COURT:** Sure.

16 (Brief pause.)

17 **MR. CAVER:** Judge, with all due respect to the
18 government, Mr. Cistrunk is my witness. He's under my subpoena.
19 I'm asking to have this time outside of the presence of the
20 government not for any untoward reason, but just because he's my
21 witness, and I've asked him to be here today. We would object.

22 **THE COURT:** But what is it about the fact that he's
23 your witness that insulates him from any contact by the
24 government?

25 **MR. CAVER:** Well, it certainly wouldn't exclude it,

Voir Dire

1 **Judge, but I plan to discuss my trial strategy with the defense**
2 **witness to impart upon him why it is we want him to tell the**
3 **truth.**

4 **MR. KARNER: I guess he's free to reveal trial strategy**
5 **if he wants. That doesn't control whether or not we're allowed**
6 **to be there. That's Mr. Cistrunk's decision, not Mr. Caver or**
7 **the defendant's.**

8 **THE COURT: Mr. Cistrunk, do you have any objection to**
9 **the government listening to your conversation?**

10 **MR. COOPER: May I have a moment?**

11 **THE COURT: Sure.**

12 **(Brief pause.)**

13 **MR. COOPER: Your Honor, Mr. Cistrunk would prefer that**
14 **we talk only to the defense counsel at this time and not have**
15 **the government present.**

16 **THE COURT: All right. I'll allow Mr. Caver to talk to**
17 **him privately with you present in court, Mr. Cooper. After**
18 **they're done, then the government can talk to him privately if**
19 **he wishes to talk with them of course with your presence.**

20 **MR. CAVER: And I have no objection to that.**

21 **THE COURT: All right.**

22 **MR. CAVER: Thank you.**

23 **THE COURT: I'll come back at ten after 11:00.**

24 **(Brief recess.)**

25 **THE COURT: Okay. Back on the record.**

Voir Dire

1 **MR. CAVER:** Judge, thank you. The reason we're here is
2 I am still meeting with Mr. Cistrunk. Mr. Cistrunk's attorney,
3 Mr. Cooper, has requested to see a copy of the affidavit and a
4 copy of the alleged statement that's alleged to have been made
5 by Mr. Cistrunk to Special Agent Ivancich.

6 As the court has appointed Mr. Cooper to represent
7 Mr. Cistrunk, I think it would only be reasonable that the court
8 permit me to show him those limited two pieces of evidence of
9 the government's, under the circumstances, to be able for
10 Mr. Cooper to effectively represent his client to explain to him
11 what possible exposure he might face should he choose to
12 testify. Mr. Karner has asked that I not show him either of
13 those two things, but I didn't want to show Mr. Cistrunk
14 anything or his attorney anything in violation of the court's
15 order before addressing the issue with the court.

16 **MR. KARNER:** They're discovery materials, Judge.
17 Mr. Cistrunk has now informed the court he intends to assert the
18 Fifth Amendment privilege against self-incrimination. So, he's
19 not a witness. So, he stands in the position of just a regular
20 citizen to whom the discovery materials ought not be shown.

21 **THE COURT:** But he could change his mind. Maybe after
22 talking with Mr. Cooper, he wants to testify.

23 **MR. KARNER:** He could change his mind. That's true,
24 Judge. I don't think that changes the issue of showing him the
25 discovery materials at this time when he's not a witness.

Voir Dire

1 **THE COURT:** Well, how is he going to evaluate whether
2 he wants to testify or not unless he sees those materials?

3 **MR. KARNER:** Judge, presumably, he knows what he told
4 Agent Ivancich. Presumably, he knows what's in the contents of
5 the affidavit because they say he signed it. So, he's armed
6 with information. I don't think it would be appropriate to show
7 him an ATF report or a potential exhibit when he's not a
8 witness.

9 **MR. CAVER:** I have no objection if the government would
10 like to redact the entire statement or the entire report of ATF
11 Agent Ivancich, except to show what Mr. Cistrunk said. Even the
12 government is arguing in its motion in limine, though, that the
13 statement that Mr. Cistrunk made was not against his penal
14 interest.

15 So, we have a witness who has been subpoenaed to
16 testify by the defense, who is here, who is ready to testify or
17 to plead the Fifth Amendment, but the government at the same
18 time is okay with my witness taking the Fifth at the same time
19 the government's even arguing that any statement that this
20 witness made wouldn't be against his penal interest and wouldn't
21 tend to incriminate him

22 **THE COURT:** I'll allow Mr. Cistrunk to see the
23 affidavit. What about do you need to redact something from
24 Agent Ivancich's report? I know you don't want him to see
25 anything. I'm going to allow him to see that part of the

Voir Dire

1 report -- or I think I've got a transcript of it, don't I?

2 MR. KARNER: Yes. I don't have committed to memory
3 what's in the report. I'd have to go back and look at it,
4 Judge.

5 MR. CAVER: Well, I have the report right here.

6 THE COURT: Why don't you show it to Mr. Karner. As a
7 matter of fact, the government's motion is a public record, and
8 I suppose most of what Mr. Cistrunk would see in the report, if
9 not all of it, has already been included in your motion.

10 MR. KARNER: Well, our objection doesn't go to the
11 motion, Judge. It goes to the ATF report and it goes to the
12 affidavit at this point.

13 THE COURT: All right. I understand. I'll allow
14 Mr. Cistrunk to see the affidavit and also the report.

15 MR. CAVER: Judge, may I just -- briefly just may I
16 hand up to the court so that the court knows exactly what I
17 intend to show Mr. Cistrunk, just so there's no confusion?

18 THE COURT: Okay. I've seen them both.

19 MR. CAVER: Thank you.

20 THE COURT: I've already seen them I know what you're
21 going to give him

22 MR. CAVER: Oh, you do.

23 THE COURT: Yes.

24 MR. CAVER: Okay. And I'll just put on the record it's
25 Bates-stamped by the government 74811-000580581 and 582. And

Voir Dire

1 then the defense has previously tendered in discovery a copy of
2 the affidavit by Mr. Cistrunk that is dated July 14th, 2011,
3 notarized by Rachel Hogan. It's the only affidavit that's been
4 turned over in discovery. And it's those four pages.

5 **THE COURT:** All right. Do you want to give that to
6 Mr. Cooper --

7 **MR. CAVER:** Thank you.

8 **THE COURT:** -- and he's going to discuss it with
9 Mr. Cistrunk?

10 **MR. CAVER:** I appreciate it.

11 **THE COURT:** Can we resolve this before we call the jury
12 back in?

13 **MR. CAVER:** Oh, yes. I think this will be very --
14 Mr. Cooper understands exactly what's going on.

15 **THE COURT:** Well, he's right here.

16 **MR. COOPER:** I'm here. I've been listening. I need a
17 couple minutes with my client.

18 **THE COURT:** Sure. I'll wait right here for you.

19 **MR. COOPER:** Could I have just a moment with the
20 government?

21 (Brief pause.)

22 **MR. KARNER:** I thought Mr. Cooper was going to come in,
23 but we lost him

24 (Brief pause.)

25 **MR. COOPER:** Ready to go?

Voir Dire

1 **THE COURT: YES.**

2 **MR. COOPER: I have had the opportunity with**
3 **Mr. Cistrunk to talk to Mr. Caver. I've had an opportunity to**
4 **talk to the government. I've had an opportunity to review the**
5 **pertinent documents. At this time Mr. Cistrunk's decision**
6 **remains the same. If asked to testify about the matters in**
7 **issue, he would take the Fifth Amendment.**

8 **THE COURT: All right. That leaves us with the**
9 **804(b)(3) hearing. Mr. Cistrunk, I want you to remain -- I**
10 **can't anticipate all the ways this case may play out, but I want**
11 **you to remain in the city until we're done with this case, and**
12 **give us a means to contact you. I don't know if you have a cell**
13 **phone or your aunt has a cell phone. Yes, your aunt does.**

14 **Ma'am, would you give the CSO your cell phone number?**
15 **I think this trial may take three days, but at the end of the**
16 **trial, if you don't hear from us, you're free to do anything you**
17 **want, of course, and we'll advise you what happened. But it may**
18 **be for some reason that I can't think of right now that your**
19 **presence will be required, we need to contact you, and bring you**
20 **into court. All right?**

21 **MR. CISTRUNK: Yes, sir.**

22 **THE COURT: Fair enough?**

23 **MR. CISTRUNK: Yes, sir.**

24 **MR. COOPER: So, am I to remain then as his attorney**
25 **until the conclusion of the trial just in case?**

Voir Dire

1 **THE COURT:** Right. Yes, please.

2 **MR. COOPER:** All right.

3 **THE COURT:** Thank you Alan.

4 **MR. COOPER:** I will be available.

5 **MR. CAVER:** Judge, I've also been provided by

6 **Mr. Cistrunk** the phone number of (XXX) XXX-XXXX.

7 **THE COURT:** All right. I'd like to have the 804(b)(3)
8 hearing at about -- I'll keep questioning the jurors until about
9 quarter after 12:00. Let's start it then. How long do you
10 think it will take? Any idea?

11 **MR. PEDERSEN:** Well, your Honor, in our motion in
12 limine, as you indicated, there are several facts that we've
13 alleged that we proffered. If there's any of those facts that
14 the defendant doesn't dispute, maybe that would speed up the
15 process.

16 **THE COURT:** I'll give you a moment or a few minutes
17 before we start to find out what you can agree to or stipulate
18 to. You both agree it's the defendant's burden, though, to get
19 this evidence in.

20 **MR. CAVER:** Yes, Judge.

21 **THE COURT:** All right. Okay.

22 **MR. CAVER:** Thank you.

23 **THE COURT:** You're welcome. Do you want to take your
24 break now, Mr. Caver?

25 **MR. CAVER:** Thank you.

Voir Dire

1 **THE COURT:** We'll start at 11:30.

2 **(Brief recess.)**

3 **THE COURT:** Bring the jury in, please, Tim

4 **(The following proceedings were had in open court, in the**
5 **presence and hearing of the jury:)**

6 **THE COURT:** Folks, as you've seen, from time to time
7 things happen during the course of a case that requires our
8 attention to matters that need to be addressed outside of your
9 presence. We realize that you're taking time away from your
10 families, your work, your home, your activities in order to be
11 with us today, and we are very sensitive to the fact that we
12 want to minimize any inconvenience to you. And so, frequently,
13 we will have these hearings before you come to court in the
14 morning and after you leave at night and during breaks.

15 But I want you to know that even though you may be in
16 the jury room or you may be out in the hall and it doesn't seem
17 like anything's going on, believe me, we're working hard to
18 resolve this case and the issues it involves with due regard for
19 the rights of the parties and an orderly and fair disposition of
20 this case.

21 I want to talk to Candace now. Candace, how old are
22 you?

23 **PROSPECTIVE JUROR:** 59.

24 **THE COURT:** And where were you raised?

25 **PROSPECTIVE JUROR:** Pecatonica.

Voir Dire

1 THE COURT: Where do you live now?

2 PROSPECTIVE JUROR: Caledonia.

3 THE COURT: Do you live in a house?

4 PROSPECTIVE JUROR: Yes.

5 THE COURT: How long have you lived there?

6 PROSPECTIVE JUROR: 28 years.

7 THE COURT: Who lives there with you?

8 PROSPECTIVE JUROR: Husband.

9 THE COURT: Do you have children?

10 PROSPECTIVE JUROR: Yes.

11 THE COURT: And what are their ages, genders, and
12 occupations?

13 PROSPECTIVE JUROR: My daughter is 31, and she's a
14 student in the U.S. Marines, and my stepson is in sales, and
15 he's 42.

16 THE COURT: What is your daughter studying?

17 PROSPECTIVE JUROR: Neuroscience. She's going for a
18 doctorate.

19 THE COURT: And she's a member of the Marine Corps?

20 PROSPECTIVE JUROR: She's kind of in between. She's a
21 reservist, but she's just joined an active unit, and she'll be
22 in San Diego for two months.

23 THE COURT: What about your husband? What does he do?

24 PROSPECTIVE JUROR: Owns a machine shop.

25 THE COURT: How long has he been doing that?

Voir Dire

1 PROSPECTIVE JUROR: Over 40 years.

2 THE COURT: Do you work outside the home?

3 PROSPECTIVE JUROR: Yes, I do.

4 THE COURT: And what do you do?

5 PROSPECTIVE JUROR: Customer service.

6 THE COURT: And for how long?

7 PROSPECTIVE JUROR: 33 years.

8 THE COURT: Tell me about your -- you had a little
9 stint with the Illinois State Police.

10 PROSPECTIVE JUROR: Before I was married, I got into
11 the State Police as a cadet, and my husband now, my fiance then,
12 didn't want me in the State Police. So, I opted out.

13 THE COURT: All right. And you have guns, firearms?

14 PROSPECTIVE JUROR: Yes.

15 THE COURT: For what reason?

16 PROSPECTIVE JUROR: My husband shoots sporting clays,
17 trap, and hunts, and we also have it for self defense.

18 THE COURT: You've served on a prior jury, a criminal
19 case, a DUI?

20 PROSPECTIVE JUROR: Yes.

21 THE COURT: You understand, Candace, that the charges
22 are different in that case and this case. That was --

23 PROSPECTIVE JUROR: Yes.

24 THE COURT: -- in state court. This is in federal
25 court. And so, the rules of evidence and other procedures,

Voir Dire

1 protocols may be different. And I want to get some assurance
2 from you that you won't allow your experience in that DUI case
3 to bleed over into this case and somehow affect your duty as a
4 juror in this federal trial.

5 PROSPECTIVE JUROR: No, it won't.

6 THE COURT: How far have you gone in school?

7 PROSPECTIVE JUROR: Associate's degree?

8 THE COURT: And what did you study?

9 PROSPECTIVE JUROR: Business.

10 THE COURT: Do you have any difficulty reading or
11 understanding English?

12 PROSPECTIVE JUROR: No.

13 THE COURT: Other than your daughter, have you or an
14 immediate family member ever served in the military?

15 PROSPECTIVE JUROR: No.

16 THE COURT: Other than a juror, have you or an
17 immediate family member ever been involved as a party, witness,
18 or otherwise in a civil or criminal case?

19 PROSPECTIVE JUROR: No.

20 THE COURT: Have you or an immediate family member ever
21 been the victim of a crime?

22 PROSPECTIVE JUROR: Federal?

23 THE COURT: Any kind of crime.

24 PROSPECTIVE JUROR: Okay. My husband's company was in
25 a federal case.

Voir Dire

1 **THE COURT:** Tell me about that.

2 **PROSPECTIVE JUROR:** He bought a machine on an online
3 auction out of New York and paid the money and never got his
4 machine and never got his money back, and he went to federal,
5 and they won, but he never got anything out of New York.

6 **THE COURT:** So, he went into federal court and sued?

7 **PROSPECTIVE JUROR:** Yes.

8 **THE COURT:** To get the machine?

9 **PROSPECTIVE JUROR:** Yeah, the machine or the money
10 back.

11 **THE COURT:** Do you harbor any resentment against
12 federal authorities or the court system --

13 **PROSPECTIVE JUROR:** No.

14 **THE COURT:** -- for anything that happened there?

15 **PROSPECTIVE JUROR:** It's a little irritating, but it
16 doesn't harbor any feelings.

17 **THE COURT:** Have you or -- I wouldn't really call that
18 being a victim of a crime, although I appreciate you giving me
19 the information. Any other situations in which you feel you've
20 been a victim of a crime?

21 **PROSPECTIVE JUROR:** No.

22 **THE COURT:** Have you or an immediate family member ever
23 been arrested for a criminal offense?

24 **PROSPECTIVE JUROR:** No.

25 **THE COURT:** Can you promise me that you'll give the

Voir Dire

1 **defendant and the government a fair trial?**

2 **PROSPECTIVE JUROR: Yes.**

3 **THE COURT: Anything that I haven't asked you that I**
4 **should be asking you that bears upon your ability to serve as a**
5 **fair and impartial juror?**

6 **PROSPECTIVE JUROR: No, I'm good.**

7 **THE COURT: Okay. Thank you. Could you pass the**
8 **microphone over to Matthew for me, please?**

9 **Matthew, how old are you?**

10 **PROSPECTIVE JUROR: 35.**

11 **THE COURT: And where were you raised?**

12 **PROSPECTIVE JUROR: Dixon, Illinois.**

13 **THE COURT: Where do you live now?**

14 **PROSPECTIVE JUROR: Sterling.**

15 **THE COURT: Live in a house?**

16 **PROSPECTIVE JUROR: Yep.**

17 **THE COURT: How long have you lived there?**

18 **PROSPECTIVE JUROR: Seven years.**

19 **THE COURT: Where did you live before that?**

20 **PROSPECTIVE JUROR: Another house in Sterling.**

21 **THE COURT: Who lives there with you?**

22 **PROSPECTIVE JUROR: My daughter, part-time.**

23 **THE COURT: How old is she?**

24 **PROSPECTIVE JUROR: Six.**

25 **THE COURT: I assume you were married?**

Voir Dire

1 PROSPECTIVE JUROR: Divorced.

2 THE COURT: Divorced. But you were married?

3 PROSPECTIVE JUROR: Yeah.

4 THE COURT: How long have you been divorced?

5 PROSPECTIVE JUROR: A little over a year now.

6 THE COURT: How long were you married?

7 PROSPECTIVE JUROR: Six years.

8 THE COURT: Any other children?

9 PROSPECTIVE JUROR: No, just the one.

10 THE COURT: What does your ex-wife do for a living?

11 PROSPECTIVE JUROR: General clerk, CVS.

12 THE COURT: How about you? What do you do for a
13 living?

14 PROSPECTIVE JUROR: Machinist.

15 THE COURT: What kind of company do you work for?

16 PROSPECTIVE JUROR: We mainly just remanufacture air
17 locks.

18 THE COURT: Air locks for what?

19 PROSPECTIVE JUROR: They're mainly in like companies
20 like ADM their grain systems. Some chemical industries,
21 some -- mainly corn. You know, the corn industry.

22 THE COURT: Right. How long have you been doing that?

23 PROSPECTIVE JUROR: Since '98.

24 THE COURT: How far have you gone in school?

25 PROSPECTIVE JUROR: High school.

Voir Dire

1 **THE COURT:** Do you have any difficulty reading or
2 **understanding English?**

3 **PROSPECTIVE JUROR:** No.

4 **THE COURT:** You own some guns?

5 **PROSPECTIVE JUROR:** Yeah.

6 **THE COURT:** For what purpose?

7 **PROSPECTIVE JUROR:** Mainly hunting.

8 **THE COURT:** Have you or an immediate family member
9 **served in the military?**

10 **PROSPECTIVE JUROR:** My brother.

11 **THE COURT:** And when was he in the military, and what
12 **branch was he in?**

13 **PROSPECTIVE JUROR:** The Army, and he got out two years
14 **ago. He was in for six years.**

15 **THE COURT:** What kind of job did he do?

16 **PROSPECTIVE JUROR:** Mechanic.

17 **THE COURT:** Have you or an immediate family member ever
18 **been involved as a party, witness, or otherwise in a civil or**
19 **criminal case?**

20 **PROSPECTIVE JUROR:** No.

21 **THE COURT:** Have you or an immediate family member ever
22 **been the victim of a crime?**

23 **PROSPECTIVE JUROR:** No.

24 **THE COURT:** Have you or an immediate family member ever
25 **been arrested for a criminal offense?**

Voir Dire

1 PROSPECTIVE JUROR: A DUI.

2 THE COURT: Who was that?

3 PROSPECTIVE JUROR: Me.

4 THE COURT: And when was that?

5 PROSPECTIVE JUROR: About twelve years ago.

6 THE COURT: And how did it resolve?

7 PROSPECTIVE JUROR: I pled guilty.

8 THE COURT: And what was your sentence?

9 PROSPECTIVE JUROR: There wasn't one.

10 THE COURT: Were you placed on court supervision or
11 probation?

12 PROSPECTIVE JUROR: Yeah. I think like court
13 supervision for two years.

14 THE COURT: Is there anything about that experience
15 that affects your ability to be a fair and impartial juror in
16 this case?

17 PROSPECTIVE JUROR: No.

18 THE COURT: Do you harbor any resentment against the
19 court system or the law enforcement officers for what happened?

20 PROSPECTIVE JUROR: No.

21 THE COURT: Do you belong to any clubs or
22 organizations?

23 PROSPECTIVE JUROR: No.

24 THE COURT: Can you promise me that you'll give the
25 defendant and the government a fair trial?

Voir Dire

1 **PROSPECTIVE JUROR: Yes.**

2 **THE COURT: Anything I need to know about you that I**
3 **don't that bears upon your ability to serve as a fair and**
4 **impartial juror?**

5 **PROSPECTIVE JUROR: No.**

6 **THE COURT: All right. I'll give the parties a few**
7 **minutes. Let's meet at sidebar.**

8 **(The following proceedings were had at the sidebar, out of**
9 **the presence and hearing of the jury:)**

10 **THE COURT: Any follow-up questions?**

11 **MR. KARNER: No.**

12 **MR. CAVER: No, Judge.**

13 **THE COURT: Challenges for cause?**

14 **MR. KARNER: No.**

15 **MR. CAVER: Judge, no.**

16 **THE COURT: All right. As to juror number one,**
17 **Patricia Brees, does the government accept or reject?**

18 **MR. KARNER: Reject.**

19 **THE COURT: Juror number two, Maurice Bowdry. Does the**
20 **defense accept or reject?**

21 **MR. CAVER: We accept.**

22 **THE COURT: Government?**

23 **MR. KARNER: We'll reject.**

24 **THE COURT: As to juror number three, Thomas Wilson --**

25 **MR. CAVER: Is there a reason?**

Voir Dire

1 **MR. KARNER:** I don't think we have to give a reason at
2 **this point. I object to collapsing -- if counsel is going to**
3 **advance an objection, they have the burden of showing a**
4 **systematic use first, and we're not going to agree to collapse**
5 **that analysis and offer a reason at this point.**

6 **THE COURT:** Thomas Wilson. Does the government accept
7 **or reject?**

8 **MR. KARNER:** We accept.

9 **THE COURT:** Defense?

10 **MR. CAVER:** We reject.

11 **THE COURT:** Juror number four, does the government
12 **accept or reject?**

13 **MR. KARNER:** Accept.

14 **MR. CAVER:** We accept.

15 **THE COURT:** Juror number five, does the defense accept
16 **or reject?**

17 **MR. CAVER:** Accept.

18 **THE COURT:** Government?

19 **MR. KARNER:** Accept.

20 **THE COURT:** Juror number six, does the defense accept
21 **or reject?**

22 **MR. CAVER:** Accept.

23 **THE COURT:** Government?

24 **MR. KARNER:** Accept.

25 **THE COURT:** Juror number seven, does the government

Voir Dire

1 **accept or reject?**

2 **MR. KARNER:** **We reject, Judge.**

3 **THE COURT:** **Juror number eight, does the defense accept**
4 **or reject?**

5 **MR. CAVER:** **We reject, Judge.**

6 **THE COURT:** **Juror number nine, does the government**
7 **accept or reject?**

8 **MR. KARNER:** **Accept.**

9 **THE COURT:** **Defense?**

10 **MR. CAVER:** **Accept, Judge.**

11 **THE COURT:** **Juror number ten, does the defense accept**
12 **or reject?**

13 **MR. CAVER:** **Accept, Judge.**

14 **MR. KARNER:** **We reject.**

15 **THE COURT:** **Juror number eleven, does the government**
16 **accept or reject?**

17 **MR. KARNER:** **Accept.**

18 **THE COURT:** **Defense?**

19 **MR. CAVER:** **Accept.**

20 **THE COURT:** **Juror number twelve, does the defense**
21 **accept or reject?**

22 **MR. CAVER:** **Accept.**

23 **THE COURT:** **Government?**

24 **MR. KARNER:** **Accept.**

25 **THE COURT:** **All right. The defense has used two of**

Voir Dire

1 **their ten, the government's used four of their six?**

2 **MR. KARNER: Yes.**

3 **THE COURT: We have six jurors. We'll call six more.**
4 **How do you propose -- when should I tell the jurors to come**
5 **back?**

6 **MR. KARNER: Judge, I think it's looking less likely**
7 **that we're going to get to opening statements today.**

8 **MR. PEDERSEN: We've already picked six.**

9 **MR. KARNER: You think we are?**

10 **MR. CAVER: Is the court going to pick two or three**
11 **alternates?**

12 **THE COURT: Two.**

13 **MR. KARNER: I almost think -- we'll still stay true to**
14 **the court's three-day schedule if we go to openings first thing**
15 **tomorrow morning and put our evidence on.**

16 **MR. CAVER: I mean, my preference is to move as quickly**
17 **as we can.**

18 **THE COURT: I'm going to have them come back at 4:00.**

19 **MR. KARNER: 4:00?**

20 **THE COURT: 4:00 o'clock.**

21 **MR. KARNER: Okay.**

22 **MR. CAVER: Is that okay?**

23 **MR. KARNER: That's fine. I hope we get to it.**

24 **THE COURT: I'm going to stay optimistic.**

25

Voir Dire

1 (The following proceedings were had in open court, in the
2 presence and hearing of the jury:)

3 **THE COURT:** All right. I'll release the following
4 jurors. Patricia Brees, Maurice Bowdry, Thomas Wilson,
5 Elizabeth Talarico, Roger Naylor, and Cathy McThenia. Folks,
6 thank you very much for your time and your effort. We
7 appreciate your assistance.

8 I'm going to ask the other jurors to stand and take an
9 oath to try this case as jurors.

10 (Jurors duly sworn.)

11 **THE COURT:** Have a seat, folks. I want to give you
12 some preliminary instructions. As jurors in this case, you're
13 not to discuss the case among yourselves or with anyone else or
14 allow anyone to discuss it in your presence. You must not read
15 any newspaper articles or listen to any radio or television
16 broadcasts relating to the case.

17 Do not make any independent investigation of the case
18 by reading materials, doing any research, attempting any
19 testing, or going to any location where any of the events in
20 this case took place.

21 If anyone contacts you or attempts to do so, either
22 directly or indirectly, report that to me appropriately. And
23 when I say you're not to talk to anyone, that includes any other
24 person. Close friends, spouses, any kind of confidante that you
25 may have. And when I mean research, I mean any kind of

Voir Dire

1 research. That's reading materials, doing anything on the
2 Internet, participating in any kind of chat room or social
3 networking device.

4 There will be a time when you can fully discuss
5 everything you've seen and heard in this case, but that will
6 have to wait until after the evidence has been presented, I've
7 instructed you on the law, and I've released you to the jury
8 room to deliberate on your verdict. I'll release you to
9 Mr. Ferguson.

10 All right. Susan, would you please call six more
11 randomly selected names, please?

12 THE CLERK: Mary C-s-e-n-a-r, row one, seat one. Terry
13 Easley, E-a-s-l-e-y, row one, seat two. Jennifer Sus, S-u-s,
14 row one, seat three. Sonia Davis, D-a-v-i-s, row two, seat one.
15 Theresa Jones, J-o-n-e-s, row two, seat two. Brenda Wilson,
16 W-i-l-s-o-n, row two, seat four. Virginia Allen, A-l-l-e-n.

17 THE COURT: Hold it. Hold it. Theresa, you should be
18 one seat down.

19 PROSPECTIVE JUROR: Right here?

20 THE COURT: Not Theresa. You're Brenda. Brenda, you
21 need to go one seat to your left.

22 Okay. We're all set then, Susan.

23 THE CLERK: Yes.

24 THE COURT: Mary, first question is how do I pronounce
25 your last name?

Voir Dire

1 PROSPECTIVE JUROR: Csenar.

2 THE COURT: Like the C wasn't there, I guess. How old
3 are you?

4 PROSPECTIVE JUROR: 50.

5 THE COURT: And where were you raised?

6 PROSPECTIVE JUROR: I was born in Michigan. My
7 formative years were in Colorado Springs, Colorado.

8 THE COURT: Where do you live now?

9 PROSPECTIVE JUROR: Crystal Lake.

10 THE COURT: How long have you lived there?

11 PROSPECTIVE JUROR: Since 2001.

12 THE COURT: Do you live in a house?

13 PROSPECTIVE JUROR: We do.

14 THE COURT: Who lives in the house with you?

15 PROSPECTIVE JUROR: My husband and two children.

16 THE COURT: What are their genders and ages?

17 PROSPECTIVE JUROR: I have a daughter that is 14, and I
18 have a son that is 11.

19 THE COURT: Do you have any other children outside the
20 home?

21 PROSPECTIVE JUROR: No.

22 THE COURT: What's your husband do for a living?

23 PROSPECTIVE JUROR: He is a wine consultant at Binny's.

24 THE COURT: A wine consultant? That sounds like a
25 great job. I wonder what he does.

Voir Dire

1 **PROSPECTIVE JUROR:** He just helps people choose their
2 wine at Binny's.

3 **THE COURT:** How long has he been doing that?

4 **PROSPECTIVE JUROR:** Probably nine months.

5 **THE COURT:** What did he do before that?

6 **PROSPECTIVE JUROR:** He was in sales. He worked for a
7 company that helped high school athletes be recruited to
8 colleges.

9 **THE COURT:** How long did he do that?

10 **PROSPECTIVE JUROR:** Probably about a year.

11 **THE COURT:** And what about before that?

12 **PROSPECTIVE JUROR:** Different things. But he did sales
13 of copiers, and he worked at Costco for awhile.

14 **THE COURT:** How about you? Do you work outside the
15 home?

16 **PROSPECTIVE JUROR:** I do.

17 **THE COURT:** And what do you do?

18 **PROSPECTIVE JUROR:** I work for the Healthcare
19 Corporation of America, HCA, and they own a purchasing
20 cooperative, a group purchasing organization, and I work for the
21 nonacute care arm of that organization.

22 **THE COURT:** How long have you been doing that?

23 **PROSPECTIVE JUROR:** We were acquired. So, I've been
24 with the company for twelve years.

25 **THE COURT:** Your father worked at the Air Force

Voir Dire

1 **Academy?**

2 **PROSPECTIVE JUROR: He did.**

3 **THE COURT: And he was a carpenter, you say?**

4 **PROSPECTIVE JUROR: He was a civil servant. So,**
5 **around -- you know, that's a huge complex. So, around the -- he**
6 **would build a platform when the president would come and speak**
7 **at the graduation commencement and do some maintenance, general**
8 **carpentry maintenance work.**

9 **THE COURT: How far did you go in school?**

10 **PROSPECTIVE JUROR: Some college.**

11 **THE COURT: What did you study in college?**

12 **PROSPECTIVE JUROR: Geology.**

13 **THE COURT: Geology?**

14 **PROSPECTIVE JUROR: Yeah. Lived in Colorado.**

15 **THE COURT: What were you going to do with it?**

16 **PROSPECTIVE JUROR: I was going to work in the outdoors**
17 **in the mountains. And then I worked part-time at a hospital.**

18 **THE COURT: Do you have any difficulty reading or**
19 **understanding English?**

20 **PROSPECTIVE JUROR: No.**

21 **THE COURT: Have you or an immediate family member ever**
22 **served in the military?**

23 **PROSPECTIVE JUROR: No.**

24 **THE COURT: Have you or an immediate family member ever**
25 **been involved as a party, witness, or otherwise in a civil or**

Voir Dire

1 **criminal case?**

2 **PROSPECTIVE JUROR: No.**

3 **THE COURT: Have you or an immediate family member ever**
4 **been the victim of a crime?**

5 **PROSPECTIVE JUROR: I've had a stereo stolen from my**
6 **car, and probably six years ago somebody rear-ended me, and when**
7 **we pulled over, I pulled over and they didn't. So, the police**
8 **came, and I gave them a report.**

9 **THE COURT: And nobody was ever apprehended for either**
10 **of these?**

11 **PROSPECTIVE JUROR: No.**

12 **THE COURT: Do you feel the situations were handled**
13 **appropriately by the authorities?**

14 **PROSPECTIVE JUROR: Sure. Not a lot of effort was put**
15 **into the hit and run, but I'm sure they figured they couldn't do**
16 **much about it.**

17 **THE COURT: Do you feel any resentment toward law**
18 **enforcement?**

19 **PROSPECTIVE JUROR: No.**

20 **THE COURT: Have you or an immediate family member ever**
21 **been arrested for a crime?**

22 **PROSPECTIVE JUROR: No.**

23 **THE COURT: Do you belong to any clubs or**
24 **organizations?**

25 **PROSPECTIVE JUROR: I belong to AAA. I belong to the**

Voir Dire

1 **health club. But no -- I have a trade association for**
2 **healthcare materials management.**

3 **THE COURT: Can you promise me that you'll give the**
4 **defendant and the government a fair trial?**

5 **PROSPECTIVE JUROR: Yes.**

6 **THE COURT: Any questions I haven't asked you that I**
7 **should be asking you that bear upon your ability to serve as a**
8 **fair and impartial juror?**

9 **PROSPECTIVE JUROR: Just that I have business travel**
10 **this Thursday and Friday.**

11 **THE COURT: I'll keep that in mind.**

12 **PROSPECTIVE JUROR: Thank you.**

13 **THE COURT: I believe I'll have you out of here by**
14 **then, though.**

15 **Terry, how old are you?**

16 **PROSPECTIVE JUROR: 62.**

17 **THE COURT: And where were you raised?**

18 **PROSPECTIVE JUROR: Charlotte, Iowa.**

19 **THE COURT: And where do you live now?**

20 **PROSPECTIVE JUROR: Fulton, Illinois.**

21 **THE COURT: Live in a house?**

22 **PROSPECTIVE JUROR: Yes.**

23 **THE COURT: For how long?**

24 **PROSPECTIVE JUROR: Fifteen years.**

25 **THE COURT: Who lives there with you?**

Voir Dire

1 **PROSPECTIVE JUROR:** My husband.

2 **THE COURT:** Do you have any children?

3 **PROSPECTIVE JUROR:** Yes, three.

4 **THE COURT:** And what are their ages, genders, and
5 occupations?

6 **PROSPECTIVE JUROR:** I have a daughter that's 43, and
7 she works at the college. And then I have a son that's 41. He
8 works for Coca Cola. And then I have a son that's 19, and he
9 works in a factory in Fulton.

10 **THE COURT:** What about your husband? What does he do
11 for a living?

12 **PROSPECTIVE JUROR:** He's a service repairman. He does
13 refrigerators.

14 **THE COURT:** Okay. What about you? Do you work outside
15 the home?

16 **PROSPECTIVE JUROR:** Yes.

17 **THE COURT:** In what capacity?

18 **PROSPECTIVE JUROR:** I work full time.

19 **THE COURT:** What kind of job do you have?

20 **PROSPECTIVE JUROR:** I work for a company that makes
21 plastics. I'm supervisor.

22 **THE COURT:** How long have you been doing that job?

23 **PROSPECTIVE JUROR:** As supervisor about five years, but
24 I've been with the company twelve.

25 **THE COURT:** How long has your husband been a service

Voir Dire

1 technician?

2 PROSPECTIVE JUROR: A year and a half.

3 THE COURT: What did he do before that?

4 PROSPECTIVE JUROR: We had a convenience store/gas
5 station.

6 THE COURT: How long did you run that?

7 PROSPECTIVE JUROR: Twenty years.

8 THE COURT: Tell me about the situation with your son
9 and a bomb in the principal's yard. What was that all about?

10 PROSPECTIVE JUROR: He was just with some neighbor
11 kids, and they did -- I don't know -- made it out of a pop can,
12 put some stuff in it. Then they drove to -- at night drove to
13 the principal's yard and rolled it in the front yard, and it
14 went off.

15 THE COURT: Did they ignite it? Did it set it off?

16 PROSPECTIVE JUROR: Yes.

17 THE COURT: And so, what happened to your son? I
18 assume this is the 19-year old.

19 PROSPECTIVE JUROR: Yes. He was like 13 at the time.
20 He got questioned, of course. He wouldn't tell on his friends.
21 So, they had told him that if he didn't, they'd be really hard
22 on him if they found out, but he still wouldn't say anything.
23 So, it all took two or three years, but they finally caught up
24 with them And he wouldn't even tell us or talk to us about it.

25 THE COURT: Was he ever taken to juvenile court on it?

Voir Dire

1 **PROSPECTIVE JUROR: Yes.**

2 **THE COURT: And what was the disposition?**

3 **PROSPECTIVE JUROR: He got -- he had to go to, I don't**
4 **know, juvenile jail or whatever.**

5 **THE COURT: Detention?**

6 **PROSPECTIVE JUROR: Yeah. I think two weeks he spent**
7 **there. And then he was on probation for I think a year and a**
8 **half, two years.**

9 **THE COURT: Is there anything about that situation that**
10 **causes you to harbor any resentment against the court system or**
11 **the juvenile authorities or the police?**

12 **PROSPECTIVE JUROR: Just the police.**

13 **THE COURT: Okay.**

14 **PROSPECTIVE JUROR: There was an incident at school**
15 **where somebody wrote on the bathroom walls that there was a bomb**
16 **going to go off or whatever on a certain day, and, of course, my**
17 **son with this thing, they call him down, and they said, "Will**
18 **you give us your cell phone," and he said, "Sure. I don't care**
19 **because I didn't do it." He gave it to them He says, "Well,**
20 **you do know that whatever we see on this will not" -- you know,**
21 **on anything else it wouldn't matter, just what they're looking**
22 **for with the school. Well, there was something else on the**
23 **phone. So, they kept his phone, and they used that against him**
24 **and this had to do with this bomb thing. And we just felt that**
25 **we were very misled when they told us it wouldn't involve**

Voir Dire

1 anything else, but it did.

2 **THE COURT:** All right. Are you going to be able to
3 judge the testimony of law enforcement officers and their
4 credibility in the same manner that you would judge any other
5 witness, or are you somehow biased against police?

6 **PROSPECTIVE JUROR:** I'm not biased against police. I
7 just think that we were misled.

8 **THE COURT:** There's nothing about that incident that
9 will affect your ability to be a fair and impartial juror here
10 then?

11 **PROSPECTIVE JUROR:** No.

12 **THE COURT:** How far have you gone in school?

13 **PROSPECTIVE JUROR:** Just twelve years high school.

14 **THE COURT:** Do you have any difficulty reading or
15 understanding English?

16 **PROSPECTIVE JUROR:** No.

17 **THE COURT:** Have you or an immediate family member ever
18 served in the military?

19 **PROSPECTIVE JUROR:** I did have a sister that went
20 through basic training, and then she -- that's as far as she
21 went with it in the Army.

22 **THE COURT:** Why did she leave?

23 **PROSPECTIVE JUROR:** She was pregnant.

24 **THE COURT:** Have you or an immediate family member ever
25 been involved as a party, witness, or otherwise in a civil or

Voir Dire

1 criminal case other than this thing you've talked about with
2 your son?

3 PROSPECTIVE JUROR: No.

4 THE COURT: Have you or an immediate family member ever
5 been the victim of a crime?

6 PROSPECTIVE JUROR: No.

7 THE COURT: And other than the situation with your son,
8 have you or an immediate family member ever been arrested for a
9 criminal offense?

10 PROSPECTIVE JUROR: No.

11 THE COURT: Do you belong to any clubs or
12 organizations?

13 PROSPECTIVE JUROR: No.

14 THE COURT: Can you promise me that you'll give the
15 defendant and the government a fair trial?

16 PROSPECTIVE JUROR: Yes.

17 THE COURT: Anything that I don't know about you that I
18 should that bears upon your ability to serve as a fair and
19 impartial juror?

20 PROSPECTIVE JUROR: No.

21 THE COURT: Okay. Thank you. Could you pass the
22 microphone over to Jennifer, please?

23 Good morning, Jennifer.

24 PROSPECTIVE JUROR: Good morning.

25 THE COURT: Well, it just turned afternoon, I guess.

Voir Dire

1 Can you tell me how old you are?

2 PROSPECTIVE JUROR: 33.

3 THE COURT: And where were you raised?

4 PROSPECTIVE JUROR: St. Charles, Illinois, and Cape
5 Coral, Florida.

6 THE COURT: Where do you live now?

7 PROSPECTIVE JUROR: Belvidere.

8 THE COURT: Live in a house?

9 PROSPECTIVE JUROR: Yes.

10 THE COURT: Who lives there with you?

11 PROSPECTIVE JUROR: My parents.

12 THE COURT: Do you have any children?

13 PROSPECTIVE JUROR: No.

14 THE COURT: Are you married?

15 PROSPECTIVE JUROR: No.

16 THE COURT: What do you do for a living?

17 PROSPECTIVE JUROR: I'm a receptionist at a doctor's
18 office.

19 THE COURT: How long have you been doing that?

20 PROSPECTIVE JUROR: Twelve years.

21 THE COURT: What about your folks?

22 PROSPECTIVE JUROR: Both retired.

23 THE COURT: What did your father retire from?

24 PROSPECTIVE JUROR: Post office.

25 THE COURT: Okay. And what about your mom?

Voir Dire

1 **PROSPECTIVE JUROR:** She was a secretary at various
2 **offices, medical offices.**

3 **THE COURT:** How do I pronounce your last name?

4 **PROSPECTIVE JUROR:** Sus.

5 **THE COURT:** Just like it looks.

6 **PROSPECTIVE JUROR:** Yes.

7 **THE COURT:** How far have you gone in school?

8 **PROSPECTIVE JUROR:** Some college.

9 **THE COURT:** What did you study?

10 **PROSPECTIVE JUROR:** History.

11 **THE COURT:** And do you have any difficulty reading or
12 **understanding English?**

13 **PROSPECTIVE JUROR:** No.

14 **THE COURT:** Have you or an immediate family member ever
15 **served in the military?**

16 **PROSPECTIVE JUROR:** My father was in the Air Force.

17 **THE COURT:** What kind of job did he have?

18 **PROSPECTIVE JUROR:** I don't know.

19 **THE COURT:** Have you or an immediate family member ever
20 **been involved as a party, witness, or otherwise in a civil or**
21 **criminal case?**

22 **PROSPECTIVE JUROR:** No.

23 **THE COURT:** Have you or an immediate family member ever
24 **been the victim of a crime?**

25 **PROSPECTIVE JUROR:** No.

Voir Dire

1 **THE COURT: Arrested for a crime?**

2 **PROSPECTIVE JUROR: I have a brother who was convicted**
3 **of a DUI.**

4 **THE COURT: Do you harbor any resentment toward the**
5 **police authorities and the court system because of that**
6 **happening?**

7 **PROSPECTIVE JUROR: No.**

8 **THE COURT: Do you think it was handled appropriately?**

9 **PROSPECTIVE JUROR: Yes.**

10 **THE COURT: Do you belong to any clubs or**
11 **organizations?**

12 **PROSPECTIVE JUROR: No.**

13 **THE COURT: Can you promise that you'll give the**
14 **government and the defendant a fair trial?**

15 **PROSPECTIVE JUROR: Yes.**

16 **THE COURT: Anything else I should be asking you that**
17 **bears upon your ability to serve as a fair and impartial juror?**

18 **PROSPECTIVE JUROR: No.**

19 **THE COURT: Okay. Thank you. Nice talking to you.**
20 **Sonia.**

21 **PROSPECTIVE JUROR: Yes.**

22 **THE COURT: Can you tell me how old you are?**

23 **PROSPECTIVE JUROR: I'm 52.**

24 **THE COURT: And where were you raised?**

25 **PROSPECTIVE JUROR: I was raised in Rock Falls,**

Voir Dire

1 Illinois.

2 THE COURT: And where do you live now?

3 PROSPECTIVE JUROR: In Sterling.

4 THE COURT: Do you live in a house?

5 PROSPECTIVE JUROR: Yes.

6 THE COURT: How long have you lived in that house?

7 PROSPECTIVE JUROR: Twelve years.

8 THE COURT: And who lives there with you?

9 PROSPECTIVE JUROR: My husband.

10 THE COURT: What's your husband do for a living?

11 PROSPECTIVE JUROR: He is just starting a part-time job
12 as an IT. He's in school part-time right now, but he starts
13 full time next week, actually.

14 THE COURT: And what was his job before this one?

15 PROSPECTIVE JUROR: He was an IT manager for 28 years
16 at a factory that closed in Sterling.

17 THE COURT: What do you do for a living?

18 PROSPECTIVE JUROR: I am a customer service
19 representative.

20 THE COURT: In a store or --

21 PROSPECTIVE JUROR: No. At a factory in town.

22 THE COURT: How long have you been doing that?

23 PROSPECTIVE JUROR: I've only been there a little over
24 a year.

25 THE COURT: What about before --

Voir Dire

1 **PROSPECTIVE JUROR:** And previous to that I was at the
2 same manufacturer that closed in our town, and I did that for 32
3 years, customer service.

4 **THE COURT:** This is your second marriage?

5 **PROSPECTIVE JUROR:** Yes.

6 **THE COURT:** Your first husband is deceased, and he was
7 a police officer for three years?

8 **PROSPECTIVE JUROR:** Yes.

9 **THE COURT:** And that's in Rock Falls?

10 **PROSPECTIVE JUROR:** Yes.

11 **THE COURT:** How long were you married to him?

12 **PROSPECTIVE JUROR:** To my first husband?

13 **THE COURT:** Right.

14 **PROSPECTIVE JUROR:** We were married 15 years.

15 **THE COURT:** But as a police officer, that was before
16 you were married.

17 **PROSPECTIVE JUROR:** Yes. He was a paramedic when we
18 were married.

19 **THE COURT:** All right. Is there anything about the
20 fact that your first husband was a police officer that would
21 affect your ability to be a fair and impartial juror in this
22 case?

23 **PROSPECTIVE JUROR:** Not at all.

24 **THE COURT:** You'd be able to judge -- to evaluate the
25 credibility of the law enforcement officers just as you would

Voir Dire

1 **any other witness?**

2 **PROSPECTIVE JUROR: Yes.**

3 **THE COURT: How far did you go in school?**

4 **PROSPECTIVE JUROR: I graduated high school.**

5 **THE COURT: Have any difficulty reading or**
6 **understanding English?**

7 **PROSPECTIVE JUROR: No.**

8 **THE COURT: Have you or an immediate family member ever**
9 **served in the military?**

10 **PROSPECTIVE JUROR: My dad in World War II. He was in**
11 **the Navy.**

12 **THE COURT: What kind of job did he have?**

13 **PROSPECTIVE JUROR: He didn't talk about it. I don't**
14 **know.**

15 **THE COURT: Have you or an immediate family member ever**
16 **been involved as a party, witness, or otherwise in a civil or**
17 **criminal case?**

18 **PROSPECTIVE JUROR: No.**

19 **THE COURT: Have you or an immediate family member ever**
20 **been the victim of a crime?**

21 **PROSPECTIVE JUROR: No.**

22 **THE COURT: Arrested for a crime?**

23 **PROSPECTIVE JUROR: No.**

24 **THE COURT: Do you belong to any clubs or**
25 **organizations?**

Voir Dire

1 **PROSPECTIVE JUROR: No.**

2 **THE COURT: Can you promise me that you'll give the**
3 **defendant and the government a fair trial?**

4 **PROSPECTIVE JUROR: Yes.**

5 **THE COURT: Anything I don't know about you that I**
6 **should that bears upon your ability to serve as a fair and**
7 **impartial juror?**

8 **PROSPECTIVE JUROR: No.**

9 **THE COURT: Let me talk to Theresa then for a moment.**
10 **Theresa, how old are you?**

11 **PROSPECTIVE JUROR: 50.**

12 **THE COURT: And where were you raised?**

13 **PROSPECTIVE JUROR: Clinton, Iowa.**

14 **THE COURT: Brenda, if you feel you need to stand up**
15 **and walk around, that's fine.**

16 **PROSPECTIVE JUROR: I'm all right for now.**

17 **THE COURT: Okay. And where do you live now?**

18 **PROSPECTIVE JUROR: I live in Fulton, Illinois.**

19 **THE COURT: And how long have you lived there?**

20 **PROSPECTIVE JUROR: 20 years.**

21 **THE COURT: Live in a house?**

22 **PROSPECTIVE JUROR: Yes.**

23 **THE COURT: Who lives there with you?**

24 **PROSPECTIVE JUROR: My two children.**

25 **THE COURT: You know, I forgot to ask Sonia whether you**

Voir Dire

1 **have children.**

2 **PROSPECTIVE JUROR: Yes, I do. I have one daughter.**
3 **She's 28, and she is an x-ray tech.**

4 **THE COURT: Okay. Thank you.**

5 **I'm sorry, Theresa. Who lives in the house with you?**

6 **PROSPECTIVE JUROR: My kids.**

7 **THE COURT: And what are their ages, genders, and**
8 **occupations?**

9 **PROSPECTIVE JUROR: They're twins, 17, boy, girl, and**
10 **they're juniors in high school.**

11 **THE COURT: Okay. Are you married?**

12 **PROSPECTIVE JUROR: Going through a divorce, process of**
13 **a divorce.**

14 **THE COURT: How long were you married?**

15 **PROSPECTIVE JUROR: Seventeen years.**

16 **THE COURT: And what did your husband do?**

17 **PROSPECTIVE JUROR: Plant manager at JT Cullen.**

18 **THE COURT: For how long?**

19 **PROSPECTIVE JUROR: I believe 13 years.**

20 **THE COURT: And what do you do for a living?**

21 **PROSPECTIVE JUROR: I'm a dental assistant.**

22 **THE COURT: How long have you been doing that?**

23 **PROSPECTIVE JUROR: On and off for 17 years. Took a**
24 **little time off after I had the twins.**

25 **THE COURT: You have other children outside the home?**

Voir Dire

1 **PROSPECTIVE JUROR:** I have my oldest son that's 28
2 that's a police officer.

3 **THE COURT:** In Clinton, Iowa?

4 **PROSPECTIVE JUROR:** In Clinton.

5 **THE COURT:** How often do you talk to him?

6 **PROSPECTIVE JUROR:** We send text messages daily. But
7 talk-talk, just --

8 **THE COURT:** Does he talk about work at all?

9 **PROSPECTIVE JUROR:** That's like rule of thumb. We
10 don't discuss business.

11 **THE COURT:** Pardon me?

12 **PROSPECTIVE JUROR:** We don't talk shop. I don't want
13 to know about his job. So, no.

14 **THE COURT:** All right. If you were to deliberate with
15 the other jurors and you concluded that the government did not
16 sustain its burden of proof and you found the defendant guilty
17 of one or more of the charges against him would you have to
18 somehow justify that to your son, or would you feel bad about
19 it --

20 **PROSPECTIVE JUROR:** No.

21 **THE COURT:** -- or put you in an uncomfortable or
22 awkward situation?

23 **PROSPECTIVE JUROR:** Not at all.

24 **THE COURT:** So, it wouldn't affect your ability to
25 serve as a fair and impartial juror here.

Voir Dire

1 PROSPECTIVE JUROR: No.

2 THE COURT: How far did you go in school?

3 PROSPECTIVE JUROR: High school.

4 THE COURT: Do you have any difficulty reading or
5 understanding English?

6 PROSPECTIVE JUROR: No.

7 THE COURT: Have you or an immediate family member ever
8 been involved as a party, witness, or otherwise in a civil or
9 criminal case?

10 PROSPECTIVE JUROR: No.

11 THE COURT: Have you or an immediate family member ever
12 been the victim of a crime?

13 PROSPECTIVE JUROR: No.

14 THE COURT: Arrested for a crime?

15 PROSPECTIVE JUROR: My nephew has been. I do have a
16 nephew that's in Pekin.

17 THE COURT: And what did he do?

18 PROSPECTIVE JUROR: Trafficking, weapons.

19 THE COURT: Trafficking --

20 PROSPECTIVE JUROR: Drugs.

21 THE COURT: Drugs?

22 PROSPECTIVE JUROR: Um hm

23 THE COURT: Well, this case involves drugs and weapons.
24 And, of course, these are just charges. The defendant is
25 presumed to be innocent as he sits there at the counsel table.

Voir Dire

1 But do you think that the case against your nephew was handled
2 appropriately?

3 PROSPECTIVE JUROR: I kind of stayed ignorant to that
4 whole thing.

5 THE COURT: Pardon me?

6 PROSPECTIVE JUROR: I kind of stayed ignorant to the
7 whole thing because that was not -- you know, those were his
8 issues. So, I didn't -- you know, I would listen to what my
9 sister would say, but she was so anti-police. So, I just kind
10 of -- because at that time that's when my son was going through
11 the law enforcement, as well. So, I had to just kind of stay
12 partial and just listen -- just not listen. So, usually when
13 she'd talk, I'd tune her out.

14 THE COURT: Okay. So, is there anything about that
15 experience that would affect your ability to be a fair and
16 impartial juror in this case?

17 PROSPECTIVE JUROR: No.

18 THE COURT: Do you belong to any clubs or
19 organizations?

20 PROSPECTIVE JUROR: No.

21 THE COURT: Can you promise me that you'll give the
22 defendant and the government a fair trial?

23 PROSPECTIVE JUROR: Yes.

24 THE COURT: Anything I don't know about you that I
25 should that bears upon your ability to serve as a fair and

Voir Dire

1 impartial juror?

2 PROSPECTIVE JUROR: No.

3 THE COURT: Can you pass the microphone to Brenda,
4 please?

5 Brenda, where were you raised?

6 PROSPECTIVE JUROR: Glenview.

7 THE COURT: Where do you live now?

8 PROSPECTIVE JUROR: Rockford.

9 THE COURT: Live in a house?

10 PROSPECTIVE JUROR: Yes.

11 THE COURT: How long have you lived there?

12 PROSPECTIVE JUROR: Three years.

13 THE COURT: How old are you?

14 PROSPECTIVE JUROR: 54.

15 THE COURT: Where did you live before you lived in the
16 house in Rockford that you live in now?

17 PROSPECTIVE JUROR: I tried some house share things,
18 and they didn't work out.

19 THE COURT: But always in Rockford?

20 PROSPECTIVE JUROR: Um hm Well, no. Well, yeah. The
21 last six years.

22 THE COURT: Where did you live before that?

23 PROSPECTIVE JUROR: DeKalb.

24 THE COURT: And did you have a house share arrangement
25 there, too?

Voir Dire

1 **PROSPECTIVE JUROR:** No. No. I was just a renter in
2 these other situations.

3 **THE COURT:** Okay. I see. Who lives in the house with
4 you?

5 **PROSPECTIVE JUROR:** Nobody lives there with me.

6 **THE COURT:** Do you have any children?

7 **PROSPECTIVE JUROR:** Yes, I have four children. My son
8 does IT in Michigan. He's 32. My daughter is 29. She does
9 graphic design in San Francisco. And my two youngest kids are
10 21 and 20, and they're both in college.

11 **THE COURT:** What are they studying?

12 **PROSPECTIVE JUROR:** The 21-year old is doing mechanical
13 engineering, and the 20-year old is doing music education.

14 **THE COURT:** Are you married?

15 **PROSPECTIVE JUROR:** Yes.

16 **THE COURT:** How long have you been married?

17 **PROSPECTIVE JUROR:** 34 years.

18 **THE COURT:** What does your husband do for a living?

19 **PROSPECTIVE JUROR:** He's clergy. United Methodist
20 clergy.

21 **THE COURT:** You're both ministers?

22 **PROSPECTIVE JUROR:** Yes.

23 **THE COURT:** How long have you been doing that?

24 **PROSPECTIVE JUROR:** I served parishes for 22 years, and
25 then I went back to school and got my counseling degree. So, I

Voir Dire

1 work now as a chaplain with hospice.

2 THE COURT: All right. And how about your husband?
3 How long has he been a minister?

4 PROSPECTIVE JUROR: Since college.

5 THE COURT: Same church?

6 PROSPECTIVE JUROR: Oh, goodness. No. No. In the
7 Methodist system they move us around.

8 THE COURT: Okay. How far did you go in school?

9 PROSPECTIVE JUROR: I have two graduate degrees.

10 THE COURT: In what?

11 PROSPECTIVE JUROR: One is the Master of Divinity for
12 ministry, and the other one is counseling.

13 THE COURT: Do you have any difficulty reading or
14 understanding English?

15 PROSPECTIVE JUROR: No.

16 THE COURT: Do you own firearms?

17 PROSPECTIVE JUROR: Yes. They're mainly my husband's,
18 but he's teaching me how to fire a handgun.

19 THE COURT: Why do you have them?

20 PROSPECTIVE JUROR: Well, he has them for collector
21 reasons, hunting, target shooting, and I'll use them for target
22 shooting.

23 THE COURT: Have you or an immediate family member ever
24 been involved as a party, witness, or otherwise in a civil or
25 criminal case?

Voir Dire

1 **PROSPECTIVE JUROR: No.**

2 **THE COURT: Have you or an immediate family member ever**
3 **been the victim of a crime?**

4 **PROSPECTIVE JUROR: Yes. We had our house broken into**
5 **early in our marriage. So, it was like 30 years ago. And they**
6 **never found who did it. We lost a lot of things.**

7 **THE COURT: Do you believe that the case was handled**
8 **appropriately by the authorities?**

9 **PROSPECTIVE JUROR: I don't really remember much about**
10 **that, other than making a report to the police.**

11 **THE COURT: Do you harbor any resentment against the**
12 **police?**

13 **PROSPECTIVE JUROR: No.**

14 **THE COURT: Have you or an immediate family member ever**
15 **been arrested for a criminal offense?**

16 **PROSPECTIVE JUROR: No.**

17 **THE COURT: Do you belong to any clubs or**
18 **organizations?**

19 **PROSPECTIVE JUROR: Yes. Illinois Counseling**
20 **Association.**

21 **THE COURT: Can you promise me that you'll give the**
22 **defendant and the government a fair trial?**

23 **PROSPECTIVE JUROR: Um hm**

24 **THE COURT: Anything I don't know about you that I**
25 **should that bears upon your ability to serve as a fair and**

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1 **impartial juror?**

2 **PROSPECTIVE JUROR:** No.

3 **THE COURT:** Okay. Thank you.

4 **Parties meet me at sidebar, please.**

5 **(The following proceedings were had at the sidebar, out of**
6 **the presence and hearing of the jury:)**

7 **THE COURT:** Any follow-up questions?

8 **MR. KARNER:** No.

9 **MR. CAVER:** Just a couple. I think it was Ms. Easley
10 **who had some trouble with the son.**

11 **THE COURT:** I can't hear you. You can talk loud,
12 **Brendan. Nobody can hear you.**

13 **MR. CAVER:** Number two had some trouble with her son
14 **and that detective. I was just going to ask a couple of**
15 **questions to make sure that he was okay.**

16 **THE COURT:** What would you like to know?

17 **MR. CAVER:** I mean, I guess you covered most of it
18 **about, you know, if she still -- if she harbors any resentment.**

19 **MR. KARNER:** I had -- along those same lines, I didn't
20 **hear her unequivocally say that she wouldn't hold it against the**
21 **police. So, I would like a commitment one way or the other.**

22 **THE COURT:** All right. Same question?

23 **MR. CAVER:** Yes. And, you know, I guess I'd like to
24 **know a little bit more the specifics about what was involved**
25 **with this telephone. I guess her kid gave it to the police, and**

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1 then they promised her that they wouldn't use anything that they
2 found. I mean, just general questions about that, I guess.

3 (The following proceedings were had in open court, in the
4 presence and hearing of the jury:)

5 **THE COURT:** Terry, would you take the microphone,
6 please? Terry, as a result of this incident and experience with
7 your son, do you harbor any resentment toward the police as to
8 what happened?

9 **PROSPECTIVE JUROR:** No. We just felt we were misled at
10 the time.

11 **THE COURT:** But that doesn't affect your ability to
12 evaluate the testimony of any law enforcement officers in this
13 case just as you would evaluate the testimony of any other
14 witness? Am I correct in saying that?

15 **PROSPECTIVE JUROR:** Yes.

16 **THE COURT:** Tell me about this cell phone situation.
17 Your son handed the police --

18 **PROSPECTIVE JUROR:** Well, this is before they had
19 finalized the whole thing, this bombing thing.

20 **THE COURT:** Now, this is the bombing, or is this
21 somebody writing something on the blackboard?

22 **PROSPECTIVE JUROR:** And then at the school that they
23 had something written on the wall.

24 **THE COURT:** But that was after the bombing situation,
25 wasn't it?

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1 **PROSPECTIVE JUROR:** Yeah, but my son wasn't involved in
2 it, or they hadn't really settled the whole thing yet at that
3 time. But they took his phone. He had a picture on there of a
4 bomb thing that these kids made, and that kind of -- so, then
5 they kept the phone, and that was the deal. He wasn't involved
6 in the thing at school.

7 **THE COURT:** Is this experience going to affect your
8 ability to be a fair and impartial juror here?

9 **PROSPECTIVE JUROR:** No.

10 **THE COURT:** Okay. Thank you.

11 **PROSPECTIVE JUROR:** I should add this, also. I had a
12 sister that was shot and killed by her husband years ago. I
13 don't know if that -- and I don't feel that you should have
14 guns.

15 **THE REPORTER:** Could you speak in the microphone?

16 **PROSPECTIVE JUROR:** Oh, I'm sorry.

17 **THE COURT:** You don't feel that that -- I think I heard
18 you say you don't feel that that would affect your ability to
19 serve as a fair and impartial juror here.

20 **PROSPECTIVE JUROR:** No.

21 **THE COURT:** You feel that situation was handled
22 appropriately by the authorities?

23 **PROSPECTIVE JUROR:** Yes. Yes, it was.

24 (The following proceedings were had at the sidebar, out of
25 the presence and hearing of the jury:)

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1 **MR. CAVER:** I'm sorry. I thought I heard her say I
2 don't feel that people should have guns.

3 **MR. KARNER:** I think Mr. Caver is right. I heard her
4 say the same thing.

5 (The following proceedings were had in open court, in the
6 presence and hearing of the jury:)

7 **THE COURT:** Terry, I think when you talk, you kind of
8 use the microphone as a demonstrative device, and sometimes I
9 don't pick up everything you say. But did you say you don't
10 think people should have guns?

11 **PROSPECTIVE JUROR:** Yes. In their homes I don't think
12 that they should.

13 **THE COURT:** All right.

14 **PROSPECTIVE JUROR:** Just because of what happened to my
15 sister.

16 **THE COURT:** Okay. Now, obviously, this case involves
17 someone with a gun. At least those are the charges. And
18 Mr. Poke is presumed innocent of those charges as he sits here
19 now. But is the fact that you don't think people should have
20 guns going to affect your ability to evaluate the evidence,
21 gather the evidence, apply the law to the evidence, and then
22 discuss this case with your fellow jurors to determine whether
23 the government's met its burden?

24 **PROSPECTIVE JUROR:** No.

25 **THE COURT:** You'll be able to do all those things

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1 without regard to your personal feelings about guns?

2 PROSPECTIVE JUROR: Yes.

3 THE COURT: All right. Thank you.

4 (The following proceedings were had at the sidebar, out of
5 the presence and hearing of the jury:)

6 MR. CAVER: Judge, may I just take a brief moment after
7 that, very brief, to talk to my client?

8 THE COURT: Okay.

9 (Brief pause.)

10 MR. CAVER: Thank you, Judge.

11 THE COURT: Sure. Any challenges for cause?

12 MR. KARNER: Not from us.

13 MR. CAVER: Judge, we would challenge number two for
14 cause because of the statement about the guns.

15 THE COURT: That's Terry Easley?

16 MR. CAVER: Yes. It's only constructive possession,
17 but I just think that -- I think she's prejudiced against people
18 that have guns, legally or illegally.

19 THE COURT: Okay. Well, she told me that that wouldn't
20 affect her ability to serve as a fair and impartial juror. I
21 believe her. So, I'll deny the challenge for cause.

22 As to juror number one then, does the government accept
23 or reject?

24 MR. KARNER: Number one we accept.

25 THE COURT: Defense? Csenar.

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1 **MR. CAVER:** I'm sorry, Judge. We reject.

2 **THE COURT:** Juror number two, does the defense accept
3 or reject?

4 **MR. CAVER:** Judge, we reject.

5 **THE COURT:** Juror number three, does the government
6 accept or reject?

7 **MR. KARNER:** Accept number three.

8 **THE COURT:** Defense?

9 **MR. CAVER:** We accept.

10 **THE COURT:** Juror number seven, does the defense accept
11 or reject?

12 **MR. CAVER:** I apologize. I'm sorry. One, two, and
13 three are seated in the front row, correct?

14 **THE COURT:** Yes.

15 **MR. CAVER:** I'm sorry. When you say seven, I've got
16 the first seat in the second row closest to us in the purple.

17 **THE COURT:** Right.

18 **MR. CAVER:** Okay. I'm sorry. We would excuse
19 Ms. Davis.

20 **MR. KARNER:** Which one is she?

21 **MR. CAVER:** She's --

22 **THE COURT:** Seven.

23 **MR. KARNER:** Okay.

24 **MR. CAVER:** Just so we're clear, she's the one sitting
25 in the back row with the purple sweater.

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1 **THE COURT:** Okay. Juror number eight, does the
2 government accept or reject?

3 **MR. KARNER:** Juror number eight we accept.

4 **THE COURT:** Defense?

5 **MR. CAVER:** And that's Ms. Jones?

6 **THE COURT:** Right.

7 **MR. CAVER:** We accept.

8 **THE COURT:** And juror number ten, does the defense
9 accept or reject?

10 **MR. CAVER:** Accept.

11 **THE COURT:** Government?

12 **MR. KARNER:** We reject.

13 **THE COURT:** All right. So, all together the government
14 has used five of their six peremptory challenges, and the
15 defense has used five of their ten.

16 **MR. KARNER:** Yes.

17 **MR. CAVER:** Thank you, Judge.

18 **THE COURT:** All right. I'll excuse them and then
19 we'll go into our hearing.

20 (The following proceedings were had in open court, in the
21 presence and hearing of the jury:)

22 **THE COURT:** I'll excuse the following jurors. Mary
23 Csenar, Terry Easley, Sonia Davis, and Brenda Wilson. Thank
24 you, ladies, for all your help, for your assistance in trying
25 this case. Brenda, you have to watch which doors you leave in

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1 **this building.**

2 **PROSPECTIVE JUROR: Pardon?**

3 **THE COURT: You have to watch which doors you go out of**
4 **in this building.**

5 **All right. Theresa and Jennifer, could you please**
6 **stand and raise your right hand? I'll ask you to take oaths as**
7 **jurors in this case.**

8 **(Jurors duly sworn.)**

9 **THE COURT: All right. I'll place you in the competent**
10 **hands of Mr. Ferguson. But again I want to advise you that as**
11 **jurors in this case, you're not to discuss the case among**
12 **yourselves or with anyone else or permit anyone to discuss it in**
13 **your presence. You must refrain from any media exposure of the**
14 **case while it's in progress. Do not make any independent**
15 **investigation of the case by reading materials, doing any**
16 **Internet research, talking to people, or doing any testing. If**
17 **anyone attempts to contact you, either directly or indirectly,**
18 **about your service as jurors in this case, report that to me**
19 **immediately.**

20 **Folks, have a seat. I'm going to break for the noon**
21 **recess. We're going to stay here and do some work on this case,**
22 **but I'm going to allow you to leave the building. Again I want**
23 **to admonish you that as jurors in this case, you're not to**
24 **discuss the case among yourselves or with anyone else or permit**
25 **anyone to discuss it in your presence. Refrain from any media**

1 exposure of the case while it's in progress. I do not believe
2 this case will get any media coverage.

3 Do not make any independent investigation of the case
4 by reading materials, doing any research on the Internet or
5 otherwise, attempting any testing, or going to any location
6 where any of the events in this case took place. I don't know
7 that you know where the events in this case took place, but if
8 anyone contacts you or attempts to do so, either directly or
9 indirectly, about your service in this case, report that to me
10 immediately. I'll ask you to come back at 1:45. Thank you,
11 folks. We'll see you then.

12 (The following proceedings were had in open court, out of
13 the presence and hearing of the jury:)

14 THE COURT: Have a seat, please. All right. Let's go
15 to the hearing on 804(b)(3). Mr. Caver, it's your burden. Call
16 your first witness.

17 MR. CAVER: Thank you, Judge. Judge, I --

18 THE COURT: Well, first of all, let me ask you. Are
19 there any things you can agree to before we call the witness?

20 MR. CAVER: I think, Judge, we can. I think we can
21 agree to much of it, actually, in terms of the facts. If I
22 could just have a moment.

23 THE COURT: Sure. I'll give you all the time you need.

24 MR. CAVER: Thank you.

25 (Brief pause.)

1 **MR. CAVER:** Judge, I think we can stipulate to the
2 facts that would be before the court. They've all been tendered
3 in discovery.

4 **THE COURT:** Fine. Tell me what that will be.

5 **MR. PEDERSEN:** Your Honor, first of all, I believe
6 there's no objection for the court to consider the two exhibits
7 that I've marked as Government's Exhibits I-1 and I-2.
8 Government's Exhibit I-1 is a copy of Special Agent Ivancich --

9 **THE COURT:** Why did you pick I?

10 **MR. PEDERSEN:** Just because we already had trial
11 exhibits, and I don't want to get them mixed up with those.

12 **THE COURT:** That's fine. I just wondered why you
13 selected "I" out of all the letters of the alphabet.

14 **MR. PEDERSEN:** So, I-1, your Honor, is the report that
15 Special Agent Ivancich prepared after conducting the telephone
16 interview of Daron Cistrunk that we referred to in our motion in
17 limine. And I believe we have a stipulation that if Special
18 Agent Ivancich was called to testify, he would testify
19 consistent with the information contained in Government's
20 Exhibit I-1 regarding that telephone conversation and what he
21 was told by Daron Cistrunk. And then I-2 is simply the
22 affidavit that was purported to have been made by Daron Cistrunk
23 on July 14th of 2011.

24 **THE COURT:** All right. And what about the transcript
25 of that?

1 **MR. PEDERSEN:** Your Honor, it's my understanding that
2 in preparation for trial, the court was provided with a
3 transcript of the telephone conversation that we referred to in
4 our motion in limine, and it's my understanding that the
5 defendant has no objection to the court considering that
6 transcript as the evidence of that phone call.

7 **THE COURT:** All right.

8 **MR. PEDERSEN:** In addition, in our motion in limine, we
9 refer to the fact that Daron Cistrunk in his statement to
10 Special Agent Ivancich had stated that he obtained the gun at
11 issue when he initially came to Rockford, and he had been
12 robbed, and that he had reported a robbery to the Rockford
13 Police Department sometime in late July or August of 2010. And
14 as we indicate in our motion in limine, I believe the defense is
15 stipulating, that if Special Agent Ivancich was called to
16 testify, he would testify that he had checked with the Rockford
17 Police Department, and there was no such report ever made by
18 Daron Cistrunk of any robbery. I'm sorry?

19 (Off-the-record discussion between counsel.)

20 **MR. PEDERSEN:** The stipulation is that there's no
21 report on file, not that Daron Cistrunk did not make the report.

22 **THE COURT:** All right.

23 **MR. PEDERSEN:** And other than that, I believe that's
24 all the evidence.

25 **THE COURT:** Okay. Now, what about the discrepancy

1 between --

2 MR. PEDERSEN: Oh, that's right.

3 THE COURT: -- the gun that was found in Mr. Poke's car
4 and the gun that -- I believe Mr. Cistrunk had some trouble
5 in --

6 MR. CAVER: Judge, that's correct. Mr. Cistrunk is by
7 no means an expert in firearms. We would stipulate that the
8 firearm that Mr. Cistrunk was describing to Special Agent
9 Ivancich is different from the firearm that is alleged on the
10 indictment to have been constructively possessed by my client.

11 MR. PEDERSEN: Well, I believe they agreed to stipulate
12 that the firearm does only hold eleven rounds of ammunition when
13 fully loaded rather than 17.

14 THE COURT: All right.

15 MR. CAVER: We would so stipulate.

16 THE COURT: And what about the caliber?

17 MR. PEDERSEN: That the firearm is the same firearm
18 described in the indictment, a .40 caliber handgun.

19 THE COURT: And what did Mr. Cistrunk say it was, or
20 didn't he say anything?

21 MR. PEDERSEN: He said it was a nine millimeter
22 handgun.

23 MR. CAVER: That is our stipulation, Judge.

24 THE COURT: All right. I'll take argument then.
25 Mr. Caver.

1 **MR. CAVER:** Thank you, Judge. Are you asking for
2 argument?

3 **THE COURT:** Yes, please.

4 **MR. CAVER:** Thank you.

5 Judge, Daron Cistrunk had allegedly prepared this
6 affidavit. The affidavit was intended to take responsibility
7 for --

8 **THE COURT:** Did you say Mr. Cistrunk prepared it?

9 **MR. CAVER:** Yes. Or I'm sorry. It was signed by
10 Mr. Cistrunk. I think there's a factual dispute as to where it
11 was prepared. But in any case, Mr. Cistrunk adopted it by his
12 signature and by having his signature --

13 **THE COURT:** Well, that means something to me. Was it
14 prepared and given to him or did he fill it out and then sign
15 it?

16 **MR. CAVER:** Judge, I don't know. I think the
17 government's evidence -- the government may try to show that it
18 was prepared by somebody else.

19 **THE COURT:** Well, see, those are the kind of things I'd
20 like to know.

21 **MR. CAVER:** Sorry, Judge.

22 **MR. PEDERSEN:** Judge, I mean, we don't know if he
23 prepared it or not. The evidence is --

24 **THE COURT:** But he knows.

25 **MR. PEDERSEN:** Your Honor, I believe when the defendant

1 met with our office, he indicated that someone on his tier had
2 prepared the affidavit, and then Cistrunk signed it.

3 In addition, in his statement to Special Agent
4 Ivancich -- and that's the only evidence we know regarding how
5 this affidavit was prepared. In his statement to Special Agent
6 Ivancich, Daron Cistrunk indicated during that phone
7 conversation that he did not prepare the affidavit, but it was
8 brought to him and that he signed it in two places, and then he
9 took it to a notary, and it was notarized.

10 MR. CAVER: Judge, that is the stipulation. In the
11 defendant's proffer -- and I can read verbatim Special Agent
12 Ivancich wrote, I believe it was -- yes. In the 2-4-13 report
13 that Special Agent Ivancich claims that Mr. Poke said, quote, "I
14 did not write the affidavit. Some dude on my deck told me how
15 to do it and wrote it out for me," end quote.

16 THE COURT: All right. Thank you.

17 MR. CAVER: Thank you. And later Mr. Cistrunk received
18 that affidavit that had been so prepared, and he signed it and
19 notarized it, and it's our argument that by that signature and
20 by that notary that he adopted that statement as his own and
21 that the information, though it hadn't been written by his hand,
22 was information that he himself adopted.

23 That affidavit was then corroborated by the report of
24 Mr. Cistrunk to Special Agent Ivancich when Special Agent
25 Ivancich asked Mr. Cistrunk how he prepared to testify.

1 **Mr. Cistrunk said he would be prepared to testify that the gun**
2 **was his at a trial.**

3 **The government cites in its motion in limine United**
4 **States v. Securus, 207 F.3d 412 and 417. It's a Seventh Circuit**
5 **case from 2000. People do not inculcate themselves unless**
6 **they're believing it to be true. Mr. Cistrunk went a step**
7 **further. He believed that it would have been a crime for him to**
8 **have possessed that firearm This lends itself -- this lends**
9 **the statement, both of the affidavit and the oral statement**
10 **given to Special Agent Ivancich, that it was, in fact, reliable.**
11 **Mr. Cistrunk wouldn't have taken responsibility for possessing a**
12 **firearm that he knew to be involved in a federal criminal case**
13 **unless it was the truth. Obviously, the unavailability is**
14 **uncontested.**

15 **And the government relies, also, on Roberts v. City of**
16 **Troy by arguing that because Cistrunk is alleged to have told**
17 **Special Agent Ivancich that he, quote, explained that he did not**
18 **have a gun permit or gun card and was afraid that if he reported**
19 **the gun was stolen --**

20 **THE COURT: You're going to have to read a little**
21 **slower.**

22 **MR. CAVER: I'm sorry. That when he, quote, explained**
23 **that he did not have a gun permit or a gun card and was afraid**
24 **that if he reported the gun as stolen or missing, he would get**
25 **in trouble with the police, and cites Roberts v. City of Troy as**

1 being of some weight when it comes to proving that Cistrunk
2 therefore could not have believed that possessing the firearm
3 could have placed him in jeopardy for criminal prosecution in
4 any other sense merely because Mr. Cistrunk discussed with
5 Special Agent Ivancich one manner in which Mr. Cistrunk may or
6 may not have been correct about tending to incriminate himself,
7 which we are not even conceding that. The 60-day grace period
8 basically still could have landed Mr. Cistrunk in peril for a
9 deprivation of his liberty, even if it was only overnight, even
10 if it was through a preliminary hearing until it was discovered
11 that through a factual discrepancy maybe he wasn't an
12 out-of-state resident. Maybe he was an in-state resident at the
13 time, and maybe that exception wouldn't have applied to him

14 But in any case, Roberts v. City of Troy I think is
15 misplaced here because just because they had the discussion,
16 Special Agent Ivancich and Mr. Cistrunk had the discussion about
17 one manner in which it would not have been an offense to possess
18 the firearm, there are any number of ways that it could have
19 been a crime, one of which would have been Mr. Cistrunk's
20 knowing possession -- knowing transfer to a felon a firearm
21 The government's alleging in their case-in-chief here that my
22 client knowingly possessed this firearm There certainly could
23 have been all sorts of criminal implications with the conspiracy
24 of transferring firearms to known felons. There could have been
25 implications in a drug conspiracy of some sort for Mr. Cistrunk.

1 For all we know, it could be but for prosecutorial discretion
2 the government could even have evidence against Mr. Cistrunk
3 that they could have prosecuted him with. But there are all
4 sorts of ways that it could have been against Mr. Cistrunk's
5 penal interest to make the statements that he did.

6 Because this limited conversation doesn't exclude the
7 possibility of any other criminal liability, we would ask that
8 in addition to the reliability of the statements in that they
9 were made to an ATFE agent, as well as set forth in a notarized
10 statement in an affidavit, that we have met our burden and shown
11 that this exception should apply to the admission of these
12 statements, even given the unavailability of Mr. Cistrunk having
13 asserted his Fifth Amendment right to remain silent.

14 THE COURT: Thank you. Mr. Pedersen.

15 MR. PEDERSEN: Well, your Honor, the burden is the
16 defendant's, and they still have not addressed all of the
17 inconsistencies between Daron Cistrunk's statement to Special
18 Agent Ivancich and the actual facts as we know them, if he
19 actually was in possession of that firearm. But first --

20 THE COURT: What are the inconsistencies?

21 MR. PEDERSEN: Well, the fact that when he was speaking
22 to Special Agent Ivancich, he didn't even know what type of
23 caliber handgun it was. He stated it was a nine millimeter
24 handgun when, in fact, it is a .40 caliber handgun. He didn't
25 know how many rounds it held. He thought it held 17. It only

1 holds eleven. He didn't even know the make or model of the gun.

2 He also stated that at the time -- well, he also stated
3 he didn't come forward or tell anyone that it was his gun at the
4 time because he was afraid he was going to get in trouble, that
5 it was against his -- and, therefore, it was against his penal
6 interest, and yet eight days later he signs an affidavit saying
7 it's his gun. That's also inconsistent with his statement that
8 he didn't say anything about it being his gun. In addition, he
9 said that he obtained --

10 THE COURT: Well, why is that inconsistent?

11 MR. PEDERSEN: Well, if he's saying that he didn't come
12 forward with the information that it was his gun at the time,
13 why a week later, why did he sign an affidavit saying it was his
14 gun? What changed? And there's no explanation for that.
15 That's just another inconsistency that I think is worth noting.

16 In addition, he said that he obtained the gun when he
17 initially came to Rockford in late July or early August of 2010
18 and that he reported -- and that he obtained the gun because he
19 had been robbed when he arrived in Rockford and that he reported
20 that robbery to the Rockford Police Department, and no robbery
21 report was ever -- the Rockford Police Department has no report
22 of him making such a robbery report on file.

23 In addition, he said after obtaining that gun in late
24 July or August of 2010, he only had the gun for a few weeks
25 before he had left it in the car that Dayton Poke had taken and

1 that then the gun -- he never saw it again. That's also
2 inconsistent on the timing because if he obtained the gun in
3 July or August of 2010, this arrest occurred in July of 2011, a
4 year later.

5 He said that he signed the affidavit a month or two
6 after the defendant's arrest. It was actually, as I said, eight
7 days after the arrest.

8 And then there's the recorded phone call between the
9 defendant and an individual known as Unc. And during that phone
10 conversation that the court has a copy of the transcript, the
11 defendant makes numerous statements where he's trying to
12 persuade Unc to persuade Daron to sign a document that -- well,
13 specifically, we set it forth in our motion in limine, Page 5,
14 your Honor, a summary of that conversation.

15 The defendant told Unc that Daron just needed to meet
16 with Amy, and she would tell him what to do. Amy Favors is the
17 defendant's girlfriend. The defendant said that Daron just
18 needed his ID and go to the currency exchange and sign a little
19 piece of paper. Defendant told Unc that he sent a letter to
20 Amy's house and that he made it out to himself and that
21 defendant told Unc to tell Daron that they already charged the
22 defendant with it, and they can't say it both ours.

23 All those statements are inconsistent with Daron
24 Cistrunk coming forward only because -- he would only tell this
25 statement that it was his gun only because it has to be truthful

1 because it's so against his penal interest. The defendant
2 was -- during this phone conversation was trying to persuade
3 someone to persuade Daron into coming forward and signing
4 something on his behalf.

5 And then the evidence that we have, this phone
6 conversation took place on July 13th of 2011. The very next day
7 Daron Cistrunk signs the affidavit. And he indicated to Special
8 Agent Ivancich that he had gone to the currency exchange and
9 signed the affidavit, and it was notarized.

10 This is the defendant's burden to show that when this
11 witness is unavailable that there is sufficient reliability in
12 these statements for the court to admit without the government
13 having any opportunity to cross-examine the witness, and we
14 think they've fallen woefully short of that, your Honor.

15 There's numerous inconsistencies with Daron Cistrunk's
16 statement regarding his possession of that firearm. He didn't
17 know the caliber, the make, the model, how many rounds of
18 ammunition it held. He claims that he purchased it a year prior
19 and that it was a year prior to when he actually could have
20 purchased it, if you follow his time frame.

21 For all those reasons, your Honor, we don't believe
22 that the defendant has met the burden to show that the testimony
23 that they're asking to admit as hearsay was against Daron
24 Cistrunk's penal interests or that -- and, in addition, that
25 that testimony meets the exception where the court could admit

1 it as a statement against Daron Cistrunk's penal interests.

2 So, we're asking that you deny their request to admit
3 that evidence because there are insufficient corroborating
4 circumstances to clearly indicate the trustworthiness of those
5 statements.

6 THE COURT: Any reply?

7 MR. CAVER: Judge, if I may briefly.

8 THE COURT: Sure.

9 (Brief pause.)

10 MR. CAVER: Judge, thank you.

11 THE COURT: Sure.

12 MR. CAVER: Mr. Cistrunk never lied about how he got
13 the affidavit, and I just want to make clear that that was
14 not -- that that was not an inconsistency. The late July and
15 early August robbery that was claimed to have been committed by
16 Mr. Cistrunk, certainly we stipulate that the Rockford Police
17 didn't have any report of that robbery. But anybody who's
18 worked with the Rockford Police knows that there are great
19 employees there, and there are some not so great employees. And
20 on more than one occasion, I think the Rockford Police has been
21 mistaken and not taken reports and has had numerous other
22 explanations as to why reports aren't in places that they should
23 be. So, again, that's not an inconsistency just because Daron
24 Cistrunk reported to the police. I know I've personally made
25 phone calls to report issues to the Rockford Police where they

1 have declined to accept a report. So, it is not at all
2 surprising that that may not have been there.

3 In terms of the timeline, with all due respect to
4 Mr. Cistrunk and everybody else who's going to testify in this
5 case, we may not always be dealing with the most cosmopolitan of
6 people. And the fact that Mr. Cistrunk may have mistaken a
7 timeline about, you know, how long things -- how long time
8 elapsed, we had Mr. Cistrunk in here, if the court recalls
9 today, who didn't even remember what time he was supposed to be
10 in court this morning. So, I think to suggest that somehow that
11 that means that Mr. Cistrunk is inconsistent or is somehow being
12 deceptive about that, I don't think that's what that
13 illustrates.

14 And while we're on that sort of line, I don't think
15 anybody has talked to Mr. Cistrunk when he's claimed that he is
16 an expert in firearms. The difference between a nine millimeter
17 and a .40 caliber is -- they're more similar than some other
18 calibers could be. A nine millimeter and a .40 caliber can be
19 very close.

20 THE COURT: But it makes a difference when you have to
21 buy ammunition for it.

22 MR. CAVER: Absolutely. You're absolutely correct.
23 And sometimes -- well, on the street often ammunition is
24 purchased not by a description, but has sometimes been known to
25 be purchased by what actually fits in the firearm and if

1 certain rounds fit in a firearm, then they'll purchase them

2 **THE COURT:** Did this gun have bullets in it?

3 **MR. CAVER:** It did. And we would stipulate that the
4 firearm that was found had .40 caliber rounds. I believe they
5 were Winchester rounds. But no. And we stipulate to that. But
6 the point is that these inconsistencies to which the government
7 alludes, I don't think they're quite as glaring as the
8 government argues them to be. Mr. Cistrunk is taking
9 responsibility for what's his.

10 And with respect to the jail tapes with Unc that are
11 referenced in the government's motion in limine, again, these
12 tapes don't illustrate that anything dishonest was happening.
13 Asking somebody to take responsibility and to own up to an
14 offense that is their responsibility is code on the street. You
15 take responsibility for what's yours.

16 And the fact that this call was made and the government
17 uses it and paints it in a way that the defense disagrees with
18 is not only not surprising, but it's not what happened here, and
19 I don't think the government can show that that's what happened
20 here, that anybody was put up to lying about something not being
21 theirs. Even Daron Cistrunk, when he spoke to Special Agent
22 Ivancich, told him he planned to testify that it was his gun, so
23 that there are indicia of reliability.

24 Judge, if I may just have a brief moment.

25 **THE COURT:** Sure.

1 **(Brief pause.)**

2 **MR. CAVER:** Thank you. And, Judge, part of the
3 statement, Mr. Cistrunk's statement, that is, to Special Agent
4 Ivancich -- if memory serves -- I'm sorry. May I just have a
5 moment?

6 **(Brief pause.)**

7 **MR. CAVER:** Mr. Cistrunk told Special Agent Ivancich I
8 can't tell you what kind it was when I first got to Rockford.
9 It was about concerning the robbery. I thought I recalled him
10 saying that he never fired it, and that's what I'm looking for,
11 Judge. If you'd indulge me just for a moment.

12 **(Brief pause.)**

13 **MR. CAVER:** I may be misremembering that, Judge. I
14 don't think it does say that he never fired it.

15 But in any case, for those reasons, Judge, that's what
16 we would be requesting. We believe that we have met the
17 requirements of the exception, and for those reasons we would
18 ask for both the statement to Special Agent Ivancich, as well as
19 the affidavit, to be admitted.

20 **THE COURT:** All right. I'll give you a decision before
21 the end of the day.

22 **MR. CAVER:** Thank you, Judge.

23 **THE COURT:** Court's in recess until 1:45.

24 **MR. KARNER:** Judge, can we talk about witness
25 scheduling?

1 **THE COURT:** Sure.

2 **MR. KARNER:** We have three witnesses who came here at
3 12:45. I take it since we've got six jurors to pick yet, four
4 regular and two alternate, that we're not going to get to
5 testimony today?

6 **THE COURT:** I think that's probably fair. Although, if
7 we've got time, I'd like you to go into opening statements.

8 **MR. KARNER:** Okay. My question is in order to salvage
9 some good will with the witnesses, may I -- but I don't want to
10 make the court mad, can I excuse them until tomorrow morning?

11 **THE COURT:** Right. Yes, you can.

12 **MR. KARNER:** Okay. Thank you.

13 **MR. CAVER:** Judge, I'm sorry. Just before you leave.
14 Does the court have a copy of Mr. Cistrunk's statement that he
15 gave, the report to Special Agent Ivancich?

16 **THE COURT:** Isn't that I-2?

17 **MR. CAVER:** Yes. Okay. I just wanted to make sure you
18 had it for your consideration. Thank you, Judge. Sorry.

19 (Whereupon, the within trial was recessed to 1:45 o'clock
20 p.m. of the same day.)

21

22

23

24

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**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
WESTERN DIVISION**

UNITED STATES OF AMERICA,) **Docket No. 11 CR 50062**
)
 Plaintiff,) **Rockford, Illinois**
) **Monday, May 6, 2013**
 v.) **1:45 o'clock p.m**
)
 DAYTON POKE,)
)
 Defendant.)

**VOLUME 2
TRANSCRIPT OF TRIAL
BEFORE THE HONORABLE FREDERICK J. KAPALA, and a jury**

APPEARANCES:

For the Government:

**HON. GARY S. SHAPIRO
Acting United States Attorney
(327 S. Church Street,
Rockford, IL 61101) by
MR. MARK T. KARNER
MR. JOSEPH C. PEDERSEN
Assistant U. S. Attorneys**

For the Defendant:

**LAW OFFICE OF BRENDAN W CAVER, LTD.
(308 West State Street,
Suite 97,
Rockford, IL 61101) by
MR. BRENDAN W CAVER**

Also Present:

**MR. DANIEL IVANCICH
Special Agent, ATF**

Court Reporter:

**Mary T. Lindbloom
327 S. Church Street
Rockford, Illinois 61101
(815) 987-4486**

Voir Dire

1 (The following proceedings were had in open court, out of
2 the presence and hearing of the jury:)

3 THE COURT: Can we call the jury, in?

4 MR. CAVER: Yes.

5 THE COURT: Bring them in, Tim

6 (The following proceedings were had in open court, in the
7 presence and hearing of the jury:)

8 THE COURT: All right. Welcome back, everyone.

9 Susan, would you please call four more randomly
10 selected names, please?

11 THE CLERK: Virginia Allen, A-l-l-e-n, row one, seat
12 one. Kandie Bott, B-o-t-t, row one, seat two. Martin Hadley,
13 H-a-d-l-e-y, row two, seat one. Peggy Leverton,
14 L-e-v-e-r-t-o-n, row two, seat four.

15 THE COURT: Good afternoon, Virginia.

16 PROSPECTIVE JUROR: Good afternoon.

17 THE COURT: You'll have to put that microphone in front
18 of your mouth so we can hear what you have to say.

19 PROSPECTIVE JUROR: All right.

20 THE COURT: Can you tell me how old you are?

21 PROSPECTIVE JUROR: 71.

22 THE COURT: And where were you raised?

23 PROSPECTIVE JUROR: In DeKalb.

24 THE COURT: And where do you live now?

25 PROSPECTIVE JUROR: DeKalb.

Voir Dire

1 THE COURT: Live in a house?

2 PROSPECTIVE JUROR: Yes, sir.

3 THE COURT: How long have you lived there?

4 PROSPECTIVE JUROR: 68 years.

5 THE COURT: Who lives there with you?

6 PROSPECTIVE JUROR: My husband and my brother.

7 THE COURT: Okay. What does your husband do for a
8 living?

9 PROSPECTIVE JUROR: He's retired.

10 THE COURT: Retired from what?

11 PROSPECTIVE JUROR: Police officer.

12 THE COURT: That's for NIU?

13 PROSPECTIVE JUROR: Yes, sir.

14 THE COURT: When I talked to you when you were in the
15 back of the room, I said security officer, but I guess NIU has a
16 police force?

17 PROSPECTIVE JUROR: Yes, sir, it does. It has the
18 police force, and there are security people there, also, but
19 they actually have their full police force.

20 THE COURT: How long --

21 PROSPECTIVE JUROR: But he's been retired 20 years.

22 THE COURT: How long was he a police officer for NIU?

23 PROSPECTIVE JUROR: 20 years.

24 THE COURT: I'll ask you a question that you've heard
25 before, and that is if you deliberated with your fellow jurors

Voir Dire

1 and after examining the evidence in this case and the law that
2 applies to that evidence, you decide that the government has not
3 sustained its burden of proof and you find the defendant not
4 guilty of one or all of these charges, do you think that's
5 something you'd have to justify or explain to your husband or
6 that you'd feel awkward or uncomfortable about it?

7 PROSPECTIVE JUROR: He wouldn't know my decision.

8 THE COURT: Pardon me?

9 PROSPECTIVE JUROR: He wouldn't know my decision.

10 THE COURT: Well, your decision has to be unanimous.

11 PROSPECTIVE JUROR: Okay.

12 THE COURT: And so, if you acquitted the defendant,
13 he'd know that.

14 PROSPECTIVE JUROR: I would have no problem

15 THE COURT: All right. Now, your son-in-law is a
16 retired lieutenant from the DeKalb Police Department.

17 PROSPECTIVE JUROR: Yes.

18 THE COURT: And your daughter works in the State's
19 Attorney's Office in Sycamore for DeKalb County.

20 PROSPECTIVE JUROR: Yes.

21 THE COURT: Well, what about them? I'll ask you the
22 same question regarding them You have a son-in-law who's in
23 law enforcement and a daughter who works in the State's
24 Attorney's Office, and it may be that you and your jurors may
25 find the defendant's not guilty of one or more of these charges.

Voir Dire

1 Does that put you in an uncomfortable or awkward position with
2 them?

3 PROSPECTIVE JUROR: No, sir.

4 THE COURT: Which brother -- you have a brother that
5 lives with you?

6 PROSPECTIVE JUROR: Yes, sir.

7 THE COURT: And what does he do for a living?

8 PROSPECTIVE JUROR: He's retired from California, but
9 he works part-time at -- he's a security officer, an actual
10 security officer, not a policeman, at a factory in Naperville.

11 THE COURT: And what job did he retire from?

12 PROSPECTIVE JUROR: He had his own escrow business in
13 California.

14 THE COURT: An escrow business for property?

15 PROSPECTIVE JUROR: Yes, sir.

16 THE COURT: Children?

17 PROSPECTIVE JUROR: Five. A female who lives in New
18 York, 50 years old, and works for -- do you want to know where
19 they work?

20 THE COURT: Yes.

21 PROSPECTIVE JUROR: Works for Citicorp. She's voice of
22 America for Citicorp in New York.

23 THE COURT: Actually, I don't need to know where they
24 work. I just need to know what kind of job they have.

25 PROSPECTIVE JUROR: Okay. Daughter 49 works for the

Voir Dire

1 state -- you know, the attorney's office. She's an advocate for
2 abuse victims.

3 THE COURT: All right.

4 PROSPECTIVE JUROR: Son 48, and has his own landscaping
5 business. A son 46, and he has his own business, tobacco
6 business. And a son 46, who has sports bars.

7 THE COURT: He owns a sports bar.

8 PROSPECTIVE JUROR: Um-hm Many.

9 THE COURT: Your son who's in the tobacco business,
10 does he raise tobacco or sell tobacco or process tobacco?

11 PROSPECTIVE JUROR: He has a cigarette store, that kind
12 of tobacco.

13 THE COURT: I see. How far have you gone in school?

14 PROSPECTIVE JUROR: Thirteen. A freshman in college.

15 THE COURT: Okay. And what did you study in college?

16 PROSPECTIVE JUROR: English.

17 THE COURT: So, you don't have any problem reading or
18 understanding English?

19 PROSPECTIVE JUROR: No, sir.

20 THE COURT: Have you or an immediate family member ever
21 served in the military?

22 PROSPECTIVE JUROR: My brother. He was in the Marines,
23 but not immediate.

24 THE COURT: And what kind of job did he have in the
25 Marines, do you know?

Voir Dire

1 **PROSPECTIVE JUROR: I don't know.**

2 **THE COURT: Have you or an immediate family member ever**
3 **been involved as a party, witness, or otherwise in a civil or**
4 **criminal case?**

5 **PROSPECTIVE JUROR: No.**

6 **THE COURT: Have you or an immediate family member ever**
7 **been the victim of a crime?**

8 **PROSPECTIVE JUROR: No.**

9 **THE COURT: Arrested for a crime?**

10 **PROSPECTIVE JUROR: No.**

11 **THE COURT: Do you belong to any clubs or**
12 **organizations?**

13 **PROSPECTIVE JUROR: The NRA.**

14 **THE COURT: Right.**

15 **PROSPECTIVE JUROR: And -- no, no. Not really.**

16 **THE COURT: Can you promise me that you'll give the**
17 **defendant and the government a fair trial?**

18 **PROSPECTIVE JUROR: Yes.**

19 **THE COURT: Anything I don't know about you that I**
20 **should that bears upon your ability to serve as a fair and**
21 **impartial juror?**

22 **PROSPECTIVE JUROR: No.**

23 **THE COURT: Would you prefer to be called Kandie or Kay**
24 **or --**

25 **PROSPECTIVE JUROR: Kandie.**

Voir Dire

1 **THE COURT: Kandie. That's my daughter's name.**

2 **PROSPECTIVE JUROR: It's a nice name.**

3 **THE COURT: Yes. Kandie, how old are you?**

4 **PROSPECTIVE JUROR: 67.**

5 **THE COURT: And how far have you gone in school?**

6 **PROSPECTIVE JUROR: Two years -- two and a half years**
7 **in a college.**

8 **THE COURT: And what did you study?**

9 **PROSPECTIVE JUROR: Theater and English.**

10 **THE COURT: Do you have any difficulty reading or**
11 **understanding English?**

12 **PROSPECTIVE JUROR: No, sir.**

13 **THE COURT: Where were you raised?**

14 **PROSPECTIVE JUROR: Marshalltown, Iowa.**

15 **THE COURT: And where do you live now?**

16 **PROSPECTIVE JUROR: Roscoe, Illinois.**

17 **THE COURT: Live in a house there?**

18 **PROSPECTIVE JUROR: Yes, sir.**

19 **THE COURT: How long have you lived in that house?**

20 **PROSPECTIVE JUROR: 18 years.**

21 **THE COURT: Who lives there with you?**

22 **PROSPECTIVE JUROR: My husband.**

23 **THE COURT: What does he do for a living?**

24 **PROSPECTIVE JUROR: He's a senior designer for an**
25 **industry.**

Voir Dire

1 **THE COURT:** Okay. And how long has he been doing that?

2 **PROSPECTIVE JUROR:** 35, 40 years. I don't know
3 exactly. I think he started in '72.

4 **THE COURT:** What about you? Do you work outside the
5 home?

6 **PROSPECTIVE JUROR:** I'm retired now.

7 **THE COURT:** From where?

8 **PROSPECTIVE JUROR:** Beloit Corporation. Beloit,
9 Wisconsin.

10 **THE COURT:** What did you do for them?

11 **PROSPECTIVE JUROR:** I was an administrative assistant,
12 executive secretary.

13 **THE COURT:** How long did you do that?

14 **PROSPECTIVE JUROR:** 27 and a half years. Then they
15 went under, you know. Then I worked at a couple of other places
16 just for short times.

17 **THE COURT:** But the same kind of job, though?

18 **PROSPECTIVE JUROR:** Yes, sir.

19 **THE COURT:** You have two close friends who are retired
20 police officers with the Rockford City Police Department.

21 **PROSPECTIVE JUROR:** They're friends, but I wouldn't
22 call them close. I don't tell them my secrets.

23 **THE COURT:** Okay. And then you've got a neighbor who's
24 a deputy sheriff.

25 **PROSPECTIVE JUROR:** Yeah. One friend who is a retired

Voir Dire

1 policeman, and the neighbor is a deputy sheriff.

2 **THE COURT:** Okay. You've heard the same question that
3 I asked you when somebody has a connection with law enforcement,
4 and that is, you know, it may be that after sitting as a juror
5 in this case, you'll decide that the defendant is not guilty.
6 And so, I want to make sure that you wouldn't feel sheepish or
7 uncomfortable about telling your friend or your neighbor that
8 you were on a jury that found a defendant not guilty.

9 **PROSPECTIVE JUROR:** No. And I probably wouldn't see
10 them to tell them anyway.

11 **THE COURT:** All right. Have you or an immediate family
12 member ever been involved as a party, witness, or otherwise in a
13 civil or criminal case?

14 **PROSPECTIVE JUROR:** No.

15 **THE COURT:** Have you or an immediate family member ever
16 been the victim of a crime?

17 **PROSPECTIVE JUROR:** No.

18 **THE COURT:** Arrested for a crime?

19 **PROSPECTIVE JUROR:** No.

20 **THE COURT:** Do you belong to any clubs or
21 organizations?

22 **PROSPECTIVE JUROR:** Yes. Rockford Photo Club, Rockford
23 Writers Guild, Stateline Mac Users Group, Paws Humane Society,
24 and Silver Sneakers.

25 **THE COURT:** What was the last one?

Voir Dire

1 **PROSPECTIVE JUROR: Silver Sneakers.**

2 **THE COURT: Silver Sneakers?**

3 **PROSPECTIVE JUROR: It's for us old people that can go**
4 **to the Y and have a free membership.**

5 **THE COURT: Oh, that's great.**

6 **Can you promise me that you'll give the defendant and**
7 **the government a fair trial?**

8 **PROSPECTIVE JUROR: Yes, sir.**

9 **THE COURT: Any other things that I should know about**
10 **you that I don't that bears upon your ability to serve as a fair**
11 **and impartial juror?**

12 **PROSPECTIVE JUROR: No, I don't think so.**

13 **THE COURT: Okay. Thank you, Kandie. You can pass the**
14 **microphone back to Martin, please.**

15 **Martin, how old are you?**

16 **PROSPECTIVE JUROR: 44.**

17 **THE COURT: And where were you raised?**

18 **PROSPECTIVE JUROR: Polo, Illinois.**

19 **THE COURT: Where do you live now?**

20 **PROSPECTIVE JUROR: Sterling.**

21 **THE COURT: How long have you lived in Sterling?**

22 **PROSPECTIVE JUROR: Fifteen years.**

23 **THE COURT: Live in a house there?**

24 **PROSPECTIVE JUROR: Yes.**

25 **THE COURT: Who's in the house with you?**

Voir Dire

1 **PROSPECTIVE JUROR:** My wife and daughter.

2 **THE COURT:** Do you have just one daughter?

3 **PROSPECTIVE JUROR:** I have a son, too.

4 **THE COURT:** Okay. How old's your daughter?

5 **PROSPECTIVE JUROR:** Nineteen.

6 **THE COURT:** And does she go to school?

7 **PROSPECTIVE JUROR:** Yeah, she's going to Indiana
8 Wesleyan.

9 **THE COURT:** And your son, how old is he?

10 **PROSPECTIVE JUROR:** He's 21, and he's a salesman for
11 Knie's Appliance.

12 **THE COURT:** Does your wife work outside the home?

13 **PROSPECTIVE JUROR:** Yes. She works at -- she's a
14 manager at a deli in town.

15 **THE COURT:** How long has she been doing that?

16 **PROSPECTIVE JUROR:** Ten years.

17 **THE COURT:** What about you?

18 **PROSPECTIVE JUROR:** I work at Bay Valley Foods in
19 Dixon, and I do a little bit of farming on the side.

20 **THE COURT:** How long have you worked -- what do you do
21 for Bay Valley Foods?

22 **PROSPECTIVE JUROR:** Line operator. We make soft serve
23 cheese for like Arby's and Taco Bell.

24 **THE COURT:** How long have you been doing that?

25 **PROSPECTIVE JUROR:** Ten years.

Voir Dire

1 THE COURT: You have some guns at home?

2 PROSPECTIVE JUROR: Yes.

3 THE COURT: For what purpose?

4 PROSPECTIVE JUROR: Just recreational. Shooting
5 targets and hunting.

6 THE COURT: How far have you gone in school?

7 PROSPECTIVE JUROR: Twelfth grade.

8 THE COURT: Do you have any difficulty reading or
9 understanding English?

10 PROSPECTIVE JUROR: No.

11 THE COURT: Have you or an immediate family member ever
12 been involved as a party, witness, or otherwise in a civil or
13 criminal case?

14 PROSPECTIVE JUROR: No.

15 THE COURT: Have you or an immediate family member ever
16 been the victim of a crime?

17 PROSPECTIVE JUROR: No.

18 THE COURT: Arrested for a crime?

19 PROSPECTIVE JUROR: No.

20 THE COURT: Do you belong to any clubs or
21 organizations?

22 PROSPECTIVE JUROR: Just the farm bureau.

23 THE COURT: Can you promise me that you'll give the
24 defendant and the government a fair trial?

25 PROSPECTIVE JUROR: Yes.

Voir Dire

1 **THE COURT:** Any other questions I haven't asked you
2 that I should be asking you that bear upon your ability to serve
3 as a fair and impartial juror?

4 **PROSPECTIVE JUROR:** No.

5 **THE COURT:** All right. Thank you. Can you pass that
6 microphone down to Peggy, please?

7 **Good afternoon, Peggy.**

8 **PROSPECTIVE JUROR:** Hi there.

9 **THE COURT:** How old are you?

10 **PROSPECTIVE JUROR:** 46.

11 **THE COURT:** Where were you raised?

12 **PROSPECTIVE JUROR:** Winslow, Illinois.

13 **THE COURT:** Wasn't there somebody else here from
14 Winslow?

15 **PROSPECTIVE JUROR:** Yeah, she's back there. I didn't
16 know her before today.

17 **THE COURT:** Where do you live now?

18 **PROSPECTIVE JUROR:** McConnell, Illinois.

19 **THE COURT:** And you live in a house?

20 **PROSPECTIVE JUROR:** Yes.

21 **THE COURT:** How long have you lived in that house?

22 **PROSPECTIVE JUROR:** About 27 years.

23 **THE COURT:** Who lives there with you?

24 **PROSPECTIVE JUROR:** My husband and two children.

25 **THE COURT:** Do you have any children outside the home?

Voir Dire

1 PROSPECTIVE JUROR: No.

2 THE COURT: What are the ages of your children?

3 PROSPECTIVE JUROR: My daughter is 21. My son is 17.

4 THE COURT: Your son goes to school, I'm sure.

5 PROSPECTIVE JUROR: Lena- Winslow.

6 THE COURT: And your daughter?

7 PROSPECTIVE JUROR: Attending Highland Community
8 College.

9 THE COURT: What does your husband do for a living?

10 PROSPECTIVE JUROR: Works at a car dealership in
11 Freeport in the service. He's a service writer.

12 THE COURT: And what about you? Do you work outside
13 the home?

14 PROSPECTIVE JUROR: I do. I work at the same car
15 dealership. I'm the administrative assistant to the owner.

16 THE COURT: How long have you worked there?

17 PROSPECTIVE JUROR: 27 years.

18 THE COURT: Your husband, too?

19 PROSPECTIVE JUROR: Sixteen there, but he's been in the
20 auto business for about the same length I have.

21 THE COURT: You own some guns?

22 PROSPECTIVE JUROR: Yep.

23 THE COURT: For what purpose?

24 PROSPECTIVE JUROR: Hunting.

25 THE COURT: What do you hunt?

Voir Dire

1 PROSPECTIVE JUROR: Deer.

2 THE COURT: How far have you gone in school?

3 PROSPECTIVE JUROR: Twelfth grade.

4 THE COURT: Have any difficulty reading or
5 understanding English?

6 PROSPECTIVE JUROR: No.

7 THE COURT: Have you or an immediate family member ever
8 served in the military?

9 PROSPECTIVE JUROR: My father was in the Army.

10 THE COURT: What kind of job did he have?

11 PROSPECTIVE JUROR: He never spoke about it. And I
12 have two nephews that were in the Navy.

13 THE COURT: Do you know what kind of jobs they had?

14 PROSPECTIVE JUROR: One nephew has been out for about
15 three years, and he was computer, and the other nephew is in
16 Texas right now, and he is maintenance.

17 THE COURT: Martin, did I ever ask you if anybody in
18 your family has been in the military?

19 PROSPECTIVE JUROR: I have a brother-in-law that
20 retired from the Air Force.

21 THE COURT: What kind of job did he have?

22 PROSPECTIVE JUROR: I'm not sure what it was. It had
23 something to do with the jets.

24 THE COURT: All right.

25 Peggy, have you or an immediate family member ever been

Voir Dire

1 involved as a party, witness, or otherwise in a civil or
2 criminal case?

3 PROSPECTIVE JUROR: No.

4 THE COURT: Have you or an immediate family member ever
5 been the victim of a crime?

6 PROSPECTIVE JUROR: Yeah.

7 THE COURT: Can you tell me about that?

8 PROSPECTIVE JUROR: One of my sisters was molested.

9 THE COURT: And was the person who did this caught?

10 PROSPECTIVE JUROR: Yes.

11 THE COURT: And what happened? I assume it was a male.

12 PROSPECTIVE JUROR: Jail.

13 THE COURT: Went to jail?

14 PROSPECTIVE JUROR: (Nodding.)

15 THE COURT: Do you feel that matter was handled
16 appropriately by the authorities?

17 PROSPECTIVE JUROR: It was about 40 years ago. So, I'm
18 not real familiar with it, but yes.

19 THE COURT: How long ago did you say?

20 PROSPECTIVE JUROR: About 40 years ago.

21 THE COURT: Does that affect your ability to serve as a
22 fair and impartial juror in this case?

23 PROSPECTIVE JUROR: No.

24 THE COURT: Have you or an immediate family member ever
25 been arrested for a criminal offense?

Voir Dire

1 **PROSPECTIVE JUROR: No.**

2 **THE COURT: Do you belong to any clubs or**
3 **organizations?**

4 **PROSPECTIVE JUROR: I'm a member of the United**
5 **Methodist Church, and I serve on the township board. I'm the**
6 **clerk.**

7 **THE COURT: Can you promise me that you'll give the**
8 **defendant and the government a fair trial?**

9 **PROSPECTIVE JUROR: Yes.**

10 **THE COURT: Anything else you want to tell me that**
11 **bears upon your ability to serve as a fair and impartial juror?**

12 **PROSPECTIVE JUROR: I don't believe so.**

13 **THE COURT: Thank you.**

14 **Kandie, is there something else you wanted to say?**

15 **PROSPECTIVE JUROR: You didn't ask me, but my husband**
16 **was in the National Guard before we were married.**

17 **THE COURT: Okay. Do you know what kind of job he did?**

18 **PROSPECTIVE JUROR: I think maybe a grunt.**

19 **THE COURT: Okay.**

20 **PROSPECTIVE JUROR: You know, he was PFC or something.**

21 **THE COURT: Virginia, did I ask you that military**
22 **question?**

23 **PROSPECTIVE JUROR: Me?**

24 **THE COURT: Yes.**

25 **PROSPECTIVE JUROR: Yes.**

Voir Dire

1 **(The following proceedings were had at the sidebar, out of**
2 **the presence and hearing of the jury:)**

3 **THE COURT: Any follow-up questions?**

4 **MR. KARNER: Not from us.**

5 **MR. CAVER: No.**

6 **THE COURT: Any challenges for cause?**

7 **MR. KARNER: Not from us.**

8 **MR. CAVER: No.**

9 **THE COURT: As to juror number one, does the defense**
10 **accept or reject? Or I'm sorry. The government.**

11 **MR. KARNER: We accept.**

12 **THE COURT: Defense? Virginia Allen.**

13 **MR. CAVER: We reject.**

14 **THE COURT: Juror number two, does the defense accept**
15 **or reject? That's Kandie Bott.**

16 **MR. CAVER: I'm sorry, Judge. I apologize. I'm**
17 **confused.**

18 **THE COURT: Take a moment.**

19 **MR. CAVER: May I just briefly? I'm sorry.**

20 **(Brief pause.)**

21 **MR. CAVER: Thank you, Judge. Number two the defense**
22 **rejects.**

23 **THE COURT: So, you're rejecting Allen and Bott, one**
24 **and two.**

25 **MR. CAVER: That's correct, yes.**

Voir Dire

1 **THE COURT:** Juror number seven. Does the government
2 accept or reject?

3 **MR. KARNER:** Accept, your Honor.

4 **THE COURT:** Defense?

5 **MR. CAVER:** Reject.

6 **THE COURT:** And juror number ten, does the defense
7 accept or reject?

8 **MR. CAVER:** We reject.

9 **THE COURT:** You've used up nine of your peremptories.

10 **MR. CAVER:** Yes.

11 (The following proceedings were had in open court, in the
12 presence and hearing of the jury:)

13 **THE COURT:** Ladies, you'll all be excused. Martin, I
14 wasn't looking at you. You'll be excused, too. Thank you,
15 folks, for your time, your effort, and your trouble. We
16 certainly appreciate the sacrifice you've made.

17 Susan, would you please call four more randomly
18 selected names?

19 **THE CLERK:** Darsey Montgonery, M o - n - t - g - o - m e - r - y, row
20 one, seat one. Karen Robbel, R - o - b - b - e - l, row one, seat two.
21 Edward Fujimoto, F - u - j - i - m o - t - o, row two, seat one. Brenda
22 Hoffman, H - o - f - f - m a - n, row two, seat four.

23 **THE COURT:** Darsey, how old are you?

24 **PROSPECTIVE JUROR:** 39.

25 **THE COURT:** And where were you raised?

Voir Dire

1 **PROSPECTIVE JUROR:** In Utah and in Colorado.

2 **THE COURT:** Where do you live now?

3 **PROSPECTIVE JUROR:** In Belvidere, Illinois.

4 **THE COURT:** Do you live in a house?

5 **PROSPECTIVE JUROR:** Yes.

6 **THE COURT:** How long have you lived there?

7 **PROSPECTIVE JUROR:** Nine and a half years.

8 **THE COURT:** Who lives there with you?

9 **PROSPECTIVE JUROR:** My husband and four girls.

10 **THE COURT:** Do you have any children outside the home?

11 **PROSPECTIVE JUROR:** No.

12 **THE COURT:** What are the ages and occupations -- I
13 don't need to know what the ages are. We'll talk about the
14 occupations. We'll find out how old they are.

15 **PROSPECTIVE JUROR:** Nineteen, and she just finished
16 beauty college. So, she's not working. And then 17, and she's
17 a student, and she is a waitress. And the other two are 14 and
18 11, and they are students.

19 **THE COURT:** You say your husband lives at home with
20 you?

21 **PROSPECTIVE JUROR:** Correct.

22 **THE COURT:** What does your husband do for a living?

23 **PROSPECTIVE JUROR:** He's a maintenance technician.

24 **THE COURT:** And how long has he been doing that?

25 **PROSPECTIVE JUROR:** Five years.

Voir Dire

1 THE COURT: What did he do before that?

2 PROSPECTIVE JUROR: Maintenance on other machines, I
3 think, at other companies.

4 THE COURT: What about you? Do you work outside the
5 home?

6 PROSPECTIVE JUROR: Yes.

7 THE COURT: What do you do?

8 PROSPECTIVE JUROR: I'm a school bus driver.

9 THE COURT: How long have you been doing that?

10 PROSPECTIVE JUROR: Six years.

11 THE COURT: What about before that? Did you work
12 outside the home?

13 PROSPECTIVE JUROR: No.

14 THE COURT: How far have you gone in school?

15 PROSPECTIVE JUROR: A year in college.

16 THE COURT: What did you study?

17 PROSPECTIVE JUROR: Accounting.

18 THE COURT: Do you have any difficulty reading or
19 understanding English?

20 PROSPECTIVE JUROR: No.

21 THE COURT: Have you or an immediate family member ever
22 served in the military?

23 PROSPECTIVE JUROR: My grandfather in the Army and my
24 father in the Air Force.

25 THE COURT: What kind of jobs did they have?

Voir Dire

1 **PROSPECTIVE JUROR:** I'm not sure about my grandfather,
2 but my father was in aviation in the Air Force.

3 **THE COURT:** Did he fly planes or work on planes?

4 **PROSPECTIVE JUROR:** He worked in the cockpit of the
5 military planes.

6 **THE COURT:** Have you or an immediate family member ever
7 been involved as a party, witness, or otherwise in a civil or
8 criminal case?

9 **PROSPECTIVE JUROR:** No.

10 **THE COURT:** Have you or an immediate family member ever
11 been the victim of a crime?

12 **PROSPECTIVE JUROR:** No.

13 **THE COURT:** Arrested for a crime?

14 **PROSPECTIVE JUROR:** No.

15 **THE COURT:** Do you belong to any clubs or
16 organizations?

17 **PROSPECTIVE JUROR:** No.

18 **THE COURT:** Can you promise me that you'll give the
19 defendant and the government a fair trial?

20 **PROSPECTIVE JUROR:** Yes.

21 **THE COURT:** Any other questions that I haven't asked
22 you that I should be asking you that bear upon your ability to
23 serve as a fair and impartial juror?

24 **PROSPECTIVE JUROR:** No.

25 **THE COURT:** All right. Thank you. Would you let me

Voir Dire

1 **talk to Karen for a moment?**

2 **Karen, how old are you?**

3 **PROSPECTIVE JUROR: 59.**

4 **THE COURT: How do you pronounce your last name?**

5 **PROSPECTIVE JUROR: Robbel.**

6 **THE COURT: Where were you raised?**

7 **PROSPECTIVE JUROR: Rockford.**

8 **THE COURT: Where do you live now?**

9 **PROSPECTIVE JUROR: Winnebago.**

10 **THE COURT: You live in a house?**

11 **PROSPECTIVE JUROR: Yes, I do.**

12 **THE COURT: For how long?**

13 **PROSPECTIVE JUROR: 30 years.**

14 **THE COURT: And who lives there with you?**

15 **PROSPECTIVE JUROR: My husband.**

16 **THE COURT: And what's he do for a living?**

17 **PROSPECTIVE JUROR: He's a retired firefighter.**

18 **THE COURT: How long has he been retired?**

19 **PROSPECTIVE JUROR: One year.**

20 **THE COURT: And what department did he retire from?**

21 **PROSPECTIVE JUROR: Rockford.**

22 **THE COURT: How about you? Do you work outside the**
23 **home?**

24 **PROSPECTIVE JUROR: I am an elementary school teacher.**

25 **THE COURT: And how long have you been doing that?**

Voir Dire

1 PROSPECTIVE JUROR: About 20 years.

2 THE COURT: Where did you get your degree?

3 PROSPECTIVE JUROR: Rockford College.

4 THE COURT: Do you have any difficulty reading or
5 understanding English?

6 PROSPECTIVE JUROR: No, I do not.

7 THE COURT: Do you have any children?

8 PROSPECTIVE JUROR: I have three. My son is 34. He is
9 an administrative assistant. My other son is 30. He is also a
10 Rockford firefighter. And my daughter is a homemaker. She's
11 29.

12 THE COURT: Have you or anyone in your immediate family
13 ever served in the military?

14 PROSPECTIVE JUROR: Yes. My son served in the Navy for
15 four years.

16 THE COURT: And what kind of job did he have?

17 PROSPECTIVE JUROR: He was a firefighter on the boat.

18 THE COURT: And was there somebody else?

19 PROSPECTIVE JUROR: My son-in-law is in the Army.

20 THE COURT: Right now?

21 PROSPECTIVE JUROR: Right now.

22 THE COURT: What kind of job does he have?

23 PROSPECTIVE JUROR: He's a specialist in field
24 artillery. And my nephew just got out of the Army. He was a
25 helicopter mechanic.

Voir Dire

1 **THE COURT:** Have you or an immediate family member ever
2 been involved as a party, witness, or otherwise in a civil or
3 criminal case?

4 **PROSPECTIVE JUROR:** My husband served on a grand jury
5 for six months. He was also called as a witness for various
6 calls through the department as a firefighter.

7 **THE COURT:** Right. Did you say -- how was he involved
8 in a case with that?

9 **PROSPECTIVE JUROR:** To come as a witness to what
10 happened.

11 **THE COURT:** Oh, I see. All right.

12 Have you or an immediate family member ever been the
13 victim of a crime?

14 **PROSPECTIVE JUROR:** No.

15 **THE COURT:** Arrested for a crime?

16 **PROSPECTIVE JUROR:** No.

17 **THE COURT:** Do you belong to any clubs or
18 organizations?

19 **PROSPECTIVE JUROR:** Nothing other than educational.

20 **THE COURT:** Can you promise me that you'll give the
21 defendant and the government a fair trial?

22 **PROSPECTIVE JUROR:** Yes.

23 **THE COURT:** Any other questions that I haven't asked
24 you that I should be asking you that bear upon your ability to
25 serve as a fair and impartial juror?

Voir Dire

1 PROSPECTIVE JUROR: No.

2 THE COURT: Okay. Thank you. Pass the microphone to
3 Edward, please.

4 Is it Fujimoto?

5 PROSPECTIVE JUROR: Yes.

6 THE COURT: Edward, how old are you?

7 PROSPECTIVE JUROR: 71.

8 THE COURT: And where were you raised?

9 PROSPECTIVE JUROR: Seabrook, New Jersey. Born in
10 California.

11 THE COURT: And where do you live now?

12 PROSPECTIVE JUROR: Rockford.

13 THE COURT: Live in a house?

14 PROSPECTIVE JUROR: Yes.

15 THE COURT: And how long have you lived there?

16 PROSPECTIVE JUROR: This house about 22 years. Been in
17 Rockford for about 39.

18 THE COURT: Who lives there with you?

19 PROSPECTIVE JUROR: My wife and our oldest daughter.

20 THE COURT: Does your wife work outside the home?

21 PROSPECTIVE JUROR: No, she's retired.

22 THE COURT: Retired from what?

23 PROSPECTIVE JUROR: Well, mostly homemaker, but early
24 on she was a clerk, did some clerical.

25 THE COURT: A clerk?

Voir Dire

1 PROSPECTIVE JUROR: Clerical work for like Prudential.

2 THE COURT: What do you do for a living?

3 PROSPECTIVE JUROR: I'm a chemist.

4 THE COURT: And how long have you been a chemist?

5 PROSPECTIVE JUROR: Oh, since '64, I guess, or '65.

6 THE COURT: And you say you have a daughter at home?

7 PROSPECTIVE JUROR: Yes.

8 THE COURT: And how old is she?

9 PROSPECTIVE JUROR: She's 42.

10 THE COURT: And does she work?

11 PROSPECTIVE JUROR: Yes.

12 THE COURT: As what?

**13 PROSPECTIVE JUROR: She's a dietary aide for Alma
14 Nelson or Alden Nursing Home.**

**15 THE COURT: I assume you have other children outside
16 the home?**

**17 PROSPECTIVE JUROR: Yes, I have two other daughters.
18 One's a teacher in the Rockford School District. She's been
19 teaching since '94. And I have a younger daughter. She's 33,
20 and she's in California. She's a teacher by trade, but now
21 she's into fashion design, and she's working for a company
22 called Lamp in a Box.**

**23 THE COURT: You think you may know Meehan; is that
24 right?**

25 PROSPECTIVE JUROR: When I worked at Pierce Chemical, I

Voir Dire

1 **thought he was working -- I thought the name sounds familiar.**
2 **We played some baseball together maybe.**

3 **THE COURT: Is there anything about that relationship,**
4 **if it does exist, that would affect your ability to be a fair**
5 **and impartial juror?**

6 **PROSPECTIVE JUROR: No. I think if this is the Mike**
7 **Meehan I know, I think his father also sold me a car when he**
8 **worked at Strandquist.**

9 **THE COURT: You don't hold anything against him, do**
10 **you?**

11 **PROSPECTIVE JUROR: No.**

12 **THE COURT: All right. How far have you gone in**
13 **school?**

14 **PROSPECTIVE JUROR: I got a Master's in chemistry.**

15 **THE COURT: Do you have any difficulty reading or**
16 **understanding English?**

17 **PROSPECTIVE JUROR: No.**

18 **THE COURT: Have you or an immediate family member ever**
19 **served in the military?**

20 **PROSPECTIVE JUROR: Yes. Not myself, but three**
21 **brothers. Two were in the Army. They retired as 89, which is**
22 **30 years. And then I have a younger brother that was in the**
23 **Navy. He was an officer for ten years. And then I have --**

24 **THE COURT: Let me ask you about your brothers. What**
25 **kind of jobs did they do?**

Voir Dire

1 **PROSPECTIVE JUROR:** One was communication, microwave
2 communication. The other one was in computers, in computer
3 programming. And then the officer -- well, he was an officer in
4 the Navy. And then I have one brother-in-law. He was drafted,
5 and he fought in Vietnam. And then I have two nephews. They're
6 both officers. One's in the Marines, and the other is a -- he's
7 a commander, actually, of a nuclear sub.

8 **THE COURT:** All right. The brother-in-law who was in
9 Vietnam, what kind of job did he have, do you know?

10 **PROSPECTIVE JUROR:** Well, he got drafted. So, he was
11 just a foot soldier.

12 **THE COURT:** And the Marine?

13 **PROSPECTIVE JUROR:** Marines. He's an officer. He's at
14 the Pentagon right now.

15 **THE COURT:** He's where?

16 **PROSPECTIVE JUROR:** At the Pentagon.

17 **THE COURT:** Is he involved in security or law
18 enforcement or anything like that?

19 **PROSPECTIVE JUROR:** No.

20 **THE COURT:** And then you have another brother or
21 another nephew?

22 **PROSPECTIVE JUROR:** Yes. He's a commander of a nuclear
23 sub.

24 **THE COURT:** Okay. Have you or an immediate family
25 member ever been involved as a party, witness, or otherwise in a

Voir Dire

1 **civil or criminal case?**

2 **PROSPECTIVE JUROR: No.**

3 **THE COURT: Have you or an immediate family member ever**
4 **been the victim of a crime?**

5 **PROSPECTIVE JUROR: No.**

6 **THE COURT: Arrested for a crime?**

7 **PROSPECTIVE JUROR: No.**

8 **THE COURT: Do you belong to any clubs or**
9 **organizations?**

10 **PROSPECTIVE JUROR: Just the American Chemical Society.**

11 **THE COURT: Can you promise me that you'll give the**
12 **defendant and the government a fair trial?**

13 **PROSPECTIVE JUROR: Yes.**

14 **THE COURT: Anything else I should know about you that**
15 **I don't that bears upon your ability to serve as a fair and**
16 **impartial juror?**

17 **PROSPECTIVE JUROR: No.**

18 **THE COURT: All right. Could you pass the microphone**
19 **to Brenda, please?**

20 **Brenda, you've been here long enough, I think you know**
21 **all the questions. I'm just going to write down the answers.**

22 **PROSPECTIVE JUROR: That works.**

23 **THE COURT: How old are you?**

24 **PROSPECTIVE JUROR: 47.**

25 **THE COURT: And where were you raised?**

Voir Dire

1 PROSPECTIVE JUROR: Wodstock.

2 THE COURT: And where do you live now?

3 PROSPECTIVE JUROR: Huntley.

4 THE COURT: How long have you lived there?

5 PROSPECTIVE JUROR: 24 years.

6 THE COURT: Do you live in a house?

7 PROSPECTIVE JUROR: Yes.

8 THE COURT: And who's in the house with you?

9 PROSPECTIVE JUROR: My husband.

10 THE COURT: What's your husband do for a living?

11 PROSPECTIVE JUROR: Cenment mason.

12 THE COURT: Pardon me?

13 PROSPECTIVE JUROR: A cement mason.

14 THE COURT: How long has he been doing that?

15 PROSPECTIVE JUROR: 33 years.

16 THE COURT: What about you? Do you work outside the
17 home?

18 PROSPECTIVE JUROR: Yes.

19 THE COURT: As what?

20 PROSPECTIVE JUROR: I work for a court reporting
21 agency.

22 THE COURT: How long have you been doing that?

23 PROSPECTIVE JUROR: Two years.

24 THE COURT: What did you do before that?

25 PROSPECTIVE JUROR: I worked for a law firm

Voir Dire

1 THE COURT: As what?

2 PROSPECTIVE JUROR: Receptionist.

3 THE COURT: Where was the law firm?

4 PROSPECTIVE JUROR: Crystal Lake.

5 THE COURT: What kind of work did they do?

6 PROSPECTIVE JUROR: General practice. Municipal.

7 THE COURT: Have any criminal work?

**8 PROSPECTIVE JUROR: We were prosecuting attorneys for
9 several cities in the county.**

**10 THE COURT: Obviously, this is a criminal case, and you
11 and your fellow jurors will have to decide the guilt or
12 innocence of a defendant. Does that put you in any
13 uncomfortable or awkward position with your former employers?**

14 PROSPECTIVE JUROR: Not at all.

15 THE COURT: You own some firearms?

16 PROSPECTIVE JUROR: Yes.

17 THE COURT: For what purpose?

**18 PROSPECTIVE JUROR: I have to say I just won them at a
19 raffle.**

20 THE COURT: So, you're not doing anything --

21 PROSPECTIVE JUROR: No.

22 THE COURT: Handguns or long?

23 PROSPECTIVE JUROR: Shotguns, rifles.

24 THE COURT: Well, congratulations.

25 And children?

Voir Dire

1 **PROSPECTIVE JUROR: No.**

2 **THE COURT: How far have you gone to school?**

3 **PROSPECTIVE JUROR: Twelve years.**

4 **THE COURT: Do you have any difficulty reading or**
5 **understanding English?**

6 **PROSPECTIVE JUROR: No.**

7 **THE COURT: Have you or an immediate family member ever**
8 **served in the military?**

9 **PROSPECTIVE JUROR: No.**

10 **THE COURT: Have you or an immediate family member ever**
11 **been involved as a party, witness, or otherwise in a civil or**
12 **criminal case?**

13 **PROSPECTIVE JUROR: No.**

14 **THE COURT: Have you or an immediate family member ever**
15 **been the victim of a crime?**

16 **PROSPECTIVE JUROR: No.**

17 **THE COURT: Arrested for a crime?**

18 **PROSPECTIVE JUROR: No.**

19 **THE COURT: Do you belong to any clubs or**
20 **organizations?**

21 **PROSPECTIVE JUROR: No.**

22 **THE COURT: Can you promise me that you'll give the**
23 **defendant and the government a fair trial?**

24 **PROSPECTIVE JUROR: Absolutely.**

25 **THE COURT: Anything else I should know about you that**

Voir Dire

1 I don't that bears upon your ability to serve as a fair and
2 impartial juror?

3 PROSPECTIVE JUROR: No.

4 THE COURT: Figure I know enough about you already.

5 PROSPECTIVE JUROR: I think so.

6 THE COURT: Parties meet me at sidebar, please?

7 (The following proceedings were had at the sidebar, out of
8 the presence and hearing of the jury:)

9 THE COURT: Any follow-up questions?

10 MR. KARNER: Not from us.

11 MR. CAVER: Just briefly. The lady who worked at the
12 law firm usually private attorneys just do side prosecution for
13 basic traffic offenses.

14 THE COURT: Yes.

15 MR. CAVER: I just wanted to make sure that it was just
16 traffic offenses.

17 THE COURT: I'll find out. Who was that? Brenda?

18 MR. CAVER: In the light green shirt.

19 (The following proceedings were had in open court, in the
20 presence and hearing of the jury:)

21 THE COURT: Brenda, this law firm that you worked at,
22 you say members of the firm were -- prosecuted for municipal
23 authorities?

24 PROSPECTIVE JUROR: We were prosecutors for various
25 towns in the county.

Voir Dire

1 **THE COURT: Right.**

2 **PROSPECTIVE JUROR: As in traffic petty offense.**

3 **THE COURT: Right. It wasn't any criminal offenses.**

4 **PROSPECTIVE JUROR: No. Just more traffic.**

5 **THE COURT: All right. Thank you.**

6 **(The following proceedings were had at the sidebar, out of**
7 **the presence and hearing of the jury:)**

8 **THE COURT: Any challenges for cause?**

9 **MR. KARNER: No.**

10 **MR. CAVER: No.**

11 **THE COURT: All right. Juror number one, Darsey**
12 **Mntgomery, does the government accept or reject?**

13 **MR. KARNER: Accept.**

14 **THE COURT: Defense?**

15 **MR. CAVER: Accept.**

16 **THE COURT: Juror number two, Karen Robbel, does the**
17 **defense accept or reject?**

18 **MR. CAVER: Accept.**

19 **THE COURT: Government?**

20 **MR. KARNER: Accept.**

21 **THE COURT: Juror number seven, Edward Fujimoto, does**
22 **the government accept or reject?**

23 **MR. KARNER: Accept.**

24 **THE COURT: Defense?**

25 **MR. CAVER: Accept.**

Voir Dire

1 **THE COURT:** And juror number ten, Brenda Hoffman.

2 **MR. CAVER:** Accept, Judge.

3 **MR. KARNER:** Accept.

4 **THE COURT:** All right. I'll excuse them We'll go
5 into our alternates, and you each have one more peremptory
6 challenge, and then the ones you haven't used don't carry over.

7 **MR. KARNER:** So, we only have one.

8 **THE COURT:** You only have one for both alternates. And
9 alternates will be seated in the order that they're selected.
10 In other words, if they're called to sit on the regular jury, it
11 will be the order that we accept them rather than the order that
12 they were called by Susan.

13 **MR. CAVER:** All right.

14 (The following proceedings were had in open court, in the
15 presence and hearing of the jury:)

16 **THE COURT:** All right, folks. I'm going to ask you all
17 to take an oath as jurors to try this case. Would you stand and
18 raise your right hand?

19 (Jurors duly sworn.)

20 **THE COURT:** Okay. Mr. Ferguson will take charge of
21 you.

22 Have a seat, folks. We have a jury of twelve people,
23 but we have an additional task. As I mentioned to you earlier,
24 we must select two alternate jurors. Alternate jurors sit in
25 the jury box and receive evidence just as members of the primary

Voir Dire

1 jury. If during the proceedings one of the members of the
2 primary jury becomes ill or incapacitated or is unable to
3 perform or is disqualified from performing his or her duties as
4 a juror, an alternate juror will be designated to serve in the
5 place of the excused juror.

6 With that in mind, Susan, would you please call two
7 more randomly selected names?

8 THE CLERK: Betty Horn, H-o-r-n, row one, seat seven.
9 Thomas Dunn, D-u-n-n, row two, seat seven.

10 THE COURT: Okay, Betty. Did you get a microphone?

11 PROSPECTIVE JUROR: I got a microphone.

12 THE COURT: Can you tell me how old you are?

13 PROSPECTIVE JUROR: 64.

14 THE COURT: And where were you raised?

15 PROSPECTIVE JUROR: Dutchfield, Virginia.

16 THE COURT: Where do you live now?

17 PROSPECTIVE JUROR: Crystal Lake.

18 THE COURT: Live in a house?

19 PROSPECTIVE JUROR: Condo.

20 THE COURT: How long have you lived there?

21 PROSPECTIVE JUROR: Nineteen years.

22 THE COURT: How long?

23 PROSPECTIVE JUROR: Nineteen.

24 THE COURT: Who lives there with you?

25 PROSPECTIVE JUROR: Myself.

Voir Dire

1 THE COURT: Do you have any children?

2 PROSPECTIVE JUROR: Two.

3 THE COURT: And what are their ages, genders, and
4 occupations?

5 PROSPECTIVE JUROR: Two girls. 38. She works for
6 Chase Bank. And the other one is 43, and she's a homemaker.

7 THE COURT: What about your husband?

8 PROSPECTIVE JUROR: Divorced.

9 THE COURT: How long have you been divorced?

10 PROSPECTIVE JUROR: 26 years.

11 THE COURT: And what did he do for a living?

12 PROSPECTIVE JUROR: He worked for United Airlines.

13 THE COURT: Do you work outside the home?

14 PROSPECTIVE JUROR: Yes, I do.

15 THE COURT: And what do you do?

16 PROSPECTIVE JUROR: I'm a retail clerk.

17 THE COURT: And how long have you been doing that?

18 PROSPECTIVE JUROR: 32 years.

19 THE COURT: How far did you go in school?

20 PROSPECTIVE JUROR: Twelfth grade and some college
21 classes.

22 THE COURT: And what did you study in college?

23 PROSPECTIVE JUROR: I took business law, real estate,
24 and early childhood education.

25 THE COURT: Have any difficulty reading or

Voir Dire

1 **understanding English?**

2 **PROSPECTIVE JUROR: No.**

3 **THE COURT: You have a connection with McHenry County.**

4 **PROSPECTIVE JUROR: I served on a jury in McHenry**
5 **County at the Woodstock courthouse.**

6 **THE COURT: All right. And that was 20 years ago --**

7 **PROSPECTIVE JUROR: Um-hm**

8 **THE COURT: -- did you say? What kind of case was it?**

9 **PROSPECTIVE JUROR: Medical.**

10 **THE COURT: So, it was a civil case.**

11 **PROSPECTIVE JUROR: Yes.**

12 **THE COURT: You understand that that case is very**
13 **different from the case that we're here on today. And so, I**
14 **would want to make sure that you wouldn't let any of the things**
15 **that you learned in that case affect your ability to be a fair**
16 **and impartial juror in this case.**

17 **PROSPECTIVE JUROR: No, I wouldn't.**

18 **THE COURT: Other than a juror, have you or an**
19 **immediate family member ever been involved as a party, witness,**
20 **or otherwise in a civil or criminal case?**

21 **PROSPECTIVE JUROR: No.**

22 **THE COURT: Have you or an immediate family member ever**
23 **been the victim of a crime?**

24 **PROSPECTIVE JUROR: Yes.**

25 **THE COURT: Can you tell me about that?**

Voir Dire

1 **PROSPECTIVE JUROR:** Someone broke into our home while
2 we were on vacation.

3 **THE COURT:** And when was that?

4 **PROSPECTIVE JUROR:** In the seventies.

5 **THE COURT:** Was that person ever caught?

6 **PROSPECTIVE JUROR:** Yes. It was three kids that lived
7 down the street from us. They had to write us a letter of
8 apology, and they had to pay our deductible for our insurance to
9 replace the stolen items.

10 **THE COURT:** Okay. It sounds like it was a juvenile
11 case rather than a criminal case.

12 **PROSPECTIVE JUROR:** Yeah.

13 **THE COURT:** Do you feel it was handled appropriately by
14 the authorities?

15 **PROSPECTIVE JUROR:** Yes.

16 **THE COURT:** Have you or an immediate family member ever
17 been arrested for a crime?

18 **PROSPECTIVE JUROR:** No.

19 **THE COURT:** Do you belong to any clubs or
20 organizations?

21 **PROSPECTIVE JUROR:** Yes. I belong to First United
22 Methodist Church and Habitat for Humanity.

23 **THE COURT:** Can you promise me that you'll give the
24 defendant and the government a fair trial?

25 **PROSPECTIVE JUROR:** Yes.

Voir Dire

1 **THE COURT:** Are there any questions that I haven't
2 asked you that I should be asking you that bear upon your
3 ability to serve as a fair and impartial juror?

4 **PROSPECTIVE JUROR:** None that I know of.

5 **THE COURT:** All right. Could you pass that microphone
6 back to Thomas, please?

7 **How old are you, Ton?**

8 **PROSPECTIVE JUROR:** 59.

9 **THE COURT:** Where were you raised?

10 **PROSPECTIVE JUROR:** Oregon, Wisconsin.

11 **THE COURT:** And where do you live now?

12 **PROSPECTIVE JUROR:** Freeport.

13 **THE COURT:** Do you live in a house?

14 **PROSPECTIVE JUROR:** Yeah.

15 **THE COURT:** And how long have you lived there?

16 **PROSPECTIVE JUROR:** Eleven years.

17 **THE COURT:** Who lives there with you?

18 **PROSPECTIVE JUROR:** Wife and a daughter.

19 **THE COURT:** How old's your daughter?

20 **PROSPECTIVE JUROR:** Fourteen.

21 **THE COURT:** Goes to school?

22 **PROSPECTIVE JUROR:** Yes.

23 **THE COURT:** Do you have any other children outside the
24 home?

25 **PROSPECTIVE JUROR:** Two.

Voir Dire

1 **THE COURT:** And what are their ages, genders, and
2 **occupations?**

3 **PROSPECTIVE JUROR:** A son 39, a pilot, commercial
4 **pilot. A daughter 24, bank teller.**

5 **THE COURT:** What do you do for a living?

6 **PROSPECTIVE JUROR:** Farm manager.

7 **THE COURT:** And how long have you been doing that?

8 **PROSPECTIVE JUROR:** Seven years.

9 **THE COURT:** What did you do before that?

10 **PROSPECTIVE JUROR:** Truck driver.

11 **THE COURT:** Does your wife work outside the home?

12 **PROSPECTIVE JUROR:** Yes.

13 **THE COURT:** As what?

14 **PROSPECTIVE JUROR:** Retail clerk.

15 **THE COURT:** How far did you go in school?

16 **PROSPECTIVE JUROR:** Twelve.

17 **THE COURT:** Do you have any difficulty reading or
18 **understanding English?**

19 **PROSPECTIVE JUROR:** No.

20 **THE COURT:** Have you or an immediate family member ever
21 **served in the military?**

22 **PROSPECTIVE JUROR:** My father and my uncle.

23 **THE COURT:** And your father, what branch of the Service
24 **was he in?**

25 **PROSPECTIVE JUROR:** Army.

Voir Dire

1 THE COURT: And what kind of job did he have?

2 PROSPECTIVE JUROR: He was a cook.

3 THE COURT: And your uncle?

4 PROSPECTIVE JUROR: He's in the Navy.

5 THE COURT: What did he do there?

6 PROSPECTIVE JUROR: PT gunner.

7 THE COURT: You have a nephew who's a detective for the
8 Department of Natural Resources?

9 PROSPECTIVE JUROR: Yes.

10 THE COURT: Now, it may be that after sitting as a
11 juror in this case, you would decide that the government did not
12 meet its burden of proof and that you would find the defendant
13 not guilty on one or more of the charges pending against him
14 Would that put you in an uncomfortable position with your
15 nephew? In other words, would you feel that you had to explain
16 it to him or justify it to him?

17 PROSPECTIVE JUROR: No.

18 THE COURT: Do you own a gun?

19 PROSPECTIVE JUROR: Yes.

20 THE COURT: For what purpose?

21 PROSPECTIVE JUROR: Hunting.

22 THE COURT: What do you hunt?

23 PROSPECTIVE JUROR: Anything.

24 THE COURT: What kind of gun?

25 PROSPECTIVE JUROR: I've got varmint guns for coyotes,

Voir Dire

1 rifles for deer, and shotgun for deer, turkeys, duck, geese.

2 **THE COURT:** You served as a juror in a Stephenson
3 County criminal case?

4 **PROSPECTIVE JUROR:** Yes.

5 **THE COURT:** When was that?

6 **PROSPECTIVE JUROR:** That was two years ago. I was a
7 spokesperson for it.

8 **THE COURT:** Was what?

9 **PROSPECTIVE JUROR:** I was the head person. They
10 elected me to be --

11 **THE COURT:** Oh, the foreperson.

12 **PROSPECTIVE JUROR:** Yes.

13 **THE COURT:** What was the charge?

14 **PROSPECTIVE JUROR:** What?

15 **THE COURT:** What was the charge or the charges?

16 **PROSPECTIVE JUROR:** Same as this.

17 **THE COURT:** Same as this?

18 **PROSPECTIVE JUROR:** Yes.

19 **THE COURT:** Exactly the same?

20 **PROSPECTIVE JUROR:** Yes.

21 **THE COURT:** Well, I want to make sure that you
22 understand that that was a state case. This is a federal case.
23 And even though the charges were similar, federal charges may be
24 different from the state charges and that the rules of evidence
25 are going to be different and the procedure is going to be

Voir Dire

1 different. And so, I want to make sure, Tom, that you don't let
2 your experience in that other case affect your ability to be a
3 fair and impartial juror in this case.

4 PROSPECTIVE JUROR: No, it won't.

5 THE COURT: Okay. Other than a juror, have you or an
6 immediate family member ever been involved as a party, witness,
7 or otherwise in a civil or criminal case?

8 PROSPECTIVE JUROR: No.

9 THE COURT: Have you or an immediate family member ever
10 been the victim of a crime?

11 PROSPECTIVE JUROR: No.

12 THE COURT: Have you or an immediate family member ever
13 been arrested for a crime?

14 PROSPECTIVE JUROR: No.

15 THE COURT: Do you belong to any clubs or
16 organizations?

17 PROSPECTIVE JUROR: NRA.

18 THE COURT: Can you promise me that you'll give the
19 defendant and the government a fair trial?

20 PROSPECTIVE JUROR: Yes.

21 THE COURT: Anything I haven't asked you that I should
22 be asking you that bears upon your ability to serve as a fair
23 and impartial juror?

24 PROSPECTIVE JUROR: No.

25 THE COURT: Parties meet me at sidebar, please.

Voir Dire

1 (The following proceedings were had at the sidebar, out of
2 the presence and hearing of the jury:)

3 THE COURT: Any other follow-up questions?

4 MR. CAVER: I would like to know what the verdict was
5 in the trial.

6 MR. KARNER: I don't think you do. I haven't seen any
7 law on it, but I've always been taught from other judges that
8 that's not a fair question.

9 THE COURT: I'll ask.

10 MR. KARNER: Okay.

11 (The following proceedings were had in open court, in the
12 presence and hearing of the jury:)

13 THE COURT: Tom, what was the verdict in the trial that
14 you were a foreperson on?

15 PROSPECTIVE JUROR: Guilty.

16 THE COURT: On all charges?

17 PROSPECTIVE JUROR: All charges.

18 MR. CAVER: Okay. Thank you.

19 (The following proceedings were had at the sidebar, out of
20 the presence and hearing of the jury:)

21 THE COURT: Any challenges for cause?

22 MR. KARNER: No.

23 MR. CAVER: No.

24 THE COURT: As to alternate juror number one, does the
25 government accept or reject?

Voir Dire

1 **MR. KARNER:** Accept.

2 **THE COURT:** Defense?

3 **MR. CAVER:** Ms. Horn?

4 **THE COURT:** Right.

5 **MR. CAVER:** We accept.

6 **THE COURT:** Alternate juror number two, does the
7 defense accept or reject?

8 **MR. CAVER:** Reject.

9 (The following proceedings were had in open court, in the
10 presence and hearing of the jury:)

11 **THE COURT:** Tom, you'll be excused. Thank you very
12 much for your trouble, for your assistance.

13 Betty, I'm going to ask you to take an oath as a juror.
14 Would you raise your right hand?

15 (Juror duly sworn.)

16 **THE COURT:** All right. Have a seat.

17 Susan, would you call one more randomly selected name,
18 please?

19 **THE CLERK:** Mary Volk, V-o-l-k, row two, seat seven.

20 **THE COURT:** Mary, how old are you?

21 **PROSPECTIVE JUROR:** 65.

22 **THE COURT:** You need to --

23 **PROSPECTIVE JUROR:** 65.

24 **THE COURT:** Okay. And where were you raised?

25 **PROSPECTIVE JUROR:** Minnesota and Illinois.

Voir Dire

1 THE COURT: And where do you live now?

2 PROSPECTIVE JUROR: Illinois. Crystal Lake.

3 THE COURT: Do you live in a house?

4 PROSPECTIVE JUROR: Townhome.

5 THE COURT: And who lives there with you?

6 PROSPECTIVE JUROR: My dog.

7 THE COURT: How old is she?

8 PROSPECTIVE JUROR: My dog?

9 THE COURT: I thought you said your daughter. I'm glad
10 I didn't ask the occupation.

11 PROSPECTIVE JUROR: My dog is almost nine.

12 THE COURT: All right. I won't ask the gender.
13 Do you have children outside the home?

14 PROSPECTIVE JUROR: Yes.

15 THE COURT: And what are their ages, genders, and
16 occupations?

17 PROSPECTIVE JUROR: 41, girl, teacher's aide. 39,
18 girl, flight attendant. 33, stay-at-home mom, tutor for
19 children.

20 THE COURT: Your husband?

21 PROSPECTIVE JUROR: He's deceased.

22 THE COURT: How long has he been -- how long --

23 PROSPECTIVE JUROR: Almost nine years.

24 THE COURT: What did he do?

25 PROSPECTIVE JUROR: He was a heavy equipment operator.

Voir Dire

1 THE COURT: How far did you go in school?

2 PROSPECTIVE JUROR: Twelfth grade and then a year of
3 secretarial school and a year of general classes at college.

4 THE COURT: Okay. Do you work outside the home?

5 PROSPECTIVE JUROR: No.

6 THE COURT: Have you worked in the last ten years?

7 PROSPECTIVE JUROR: Yes.

8 THE COURT: As what?

9 PROSPECTIVE JUROR: Retail.

10 THE COURT: Clerk?

11 PROSPECTIVE JUROR: Yes.

12 THE COURT: Do you have any difficulty reading or
13 understanding English?

14 PROSPECTIVE JUROR: No.

15 THE COURT: Have you or an immediate family member ever
16 served in the military?

17 PROSPECTIVE JUROR: My father did.

18 THE COURT: Okay. What branch of the service did your
19 father serve?

20 PROSPECTIVE JUROR: He was in the Navy, a lieutenant
21 commander.

22 THE COURT: And then your husband?

23 PROSPECTIVE JUROR: He served in Vietnam as a machine
24 operator, heavy equipment.

25 THE COURT: You have a family friend who's an officer

Voir Dire

1 **in the Elgin Police Department?**

2 **PROSPECTIVE JUROR: Yes. He's a detective.**

3 **THE COURT: When you say a family friend, how close is**
4 **he to the family?**

5 **PROSPECTIVE JUROR: Oh, we've known him since my kids**
6 **were little. He grew up with my kids. I also forgot to say I**
7 **have two nephews in the Springfield Police Department. They're**
8 **undercover and a narcotics officer.**

9 **THE COURT: Okay. How often do you have contact with**
10 **this family friend from Elgin?**

11 **PROSPECTIVE JUROR: It varies. A couple times a year.**

12 **THE COURT: When you have contact with him, does he**
13 **talk about his job?**

14 **PROSPECTIVE JUROR: On occasion, but not no detail,**
15 **really.**

16 **THE COURT: All right. And how about your nephews?**
17 **How often do you have contact with them?**

18 **PROSPECTIVE JUROR: I have contact with them through**
19 **the mothers. So, not really that much.**

20 **THE COURT: Not with them**

21 **PROSPECTIVE JUROR: No.**

22 **THE COURT: Do their mothers talk about their sons'**
23 **jobs?**

24 **PROSPECTIVE JUROR: Occasionally.**

25 **THE COURT: If you sat as a juror in this case and you**

Voir Dire

1 determined that the government failed to meet its burden of
2 proof and that the defendant was not guilty of one of more of
3 these charges, would that put you in an uncomfortable or awkward
4 position in regard to either your family friend or the nephews
5 or their mothers?

6 PROSPECTIVE JUROR: I don't think so.

7 THE COURT: Do you feel like you'd have to justify or
8 explain?

9 PROSPECTIVE JUROR: No.

10 THE COURT: Would the fact that you have a family
11 friend who's an officer and nephews who are police detectives
12 affect in any way your ability to serve as a fair and impartial
13 juror in this case?

14 PROSPECTIVE JUROR: No.

15 THE COURT: Have you or an immediate family member ever
16 been involved as a party, witness, or otherwise in a civil or
17 criminal case?

18 PROSPECTIVE JUROR: No.

19 THE COURT: Have you or an immediate family member ever
20 been the victim of a crime?

21 PROSPECTIVE JUROR: No.

22 THE COURT: Arrested for a crime?

23 PROSPECTIVE JUROR: No.

24 THE COURT: Have you or an immediate family member --
25 I'm sorry. Do you belong to any clubs or organizations?

Voir Dire

1 **PROSPECTIVE JUROR: No.**

2 **THE COURT: Can you promise me that you'll give the**
3 **defendant and the government a fair trial?**

4 **PROSPECTIVE JUROR: Yes.**

5 **THE COURT: Any other questions I haven't asked you**
6 **that I should be asking you that bear upon your ability to serve**
7 **as a fair and impartial juror?**

8 **PROSPECTIVE JUROR: No.**

9 **THE COURT: Okay. Thank you.**

10 **(The following proceedings were had at the sidebar, out of**
11 **the presence and hearing of the jury:)**

12 **THE COURT: Any follow-up questions?**

13 **MR. KARNER: No.**

14 **MR. CAVER: No.**

15 **THE COURT: Challenges for cause?**

16 **MR. KARNER: No.**

17 **MR. CAVER: No.**

18 **THE COURT: Does the government accept or reject?**

19 **MR. KARNER: We accept.**

20 **MR. CAVER: Accept. Are we just going to break 'til**
21 **4:00, Judge?**

22 **THE COURT: No. No. I think I can get these jurors in**
23 **early. Is it possible we could get one of your witnesses back**
24 **in?**

25 **MR. KARNER: We were talking about that. I don't think**

Voir Dire

1 so, Judge. I cut them loose until tomorrow morning. I'm sorry.
2 We can at least get opening statements in, and we'll be done
3 early tomorrow.

4 THE COURT: Okay. Gosh. Would have beens, could have
5 beens. You know, we could have had a witness or two on. But
6 it's my fault. I let them go.

7 MR. KARNER: We'll still be done early tomorrow.

8 THE COURT: Okay.

9 (The following proceedings were had in open court, in the
10 presence and hearing of the jury:)

11 THE COURT: All right. Mary, I'm going to ask you to
12 take an oath as a juror to try this case.

13 (Juror duly sworn.)

14 THE COURT: The rest of you are welcome to stay around
15 and watch, if you want, but you'll be excused. Thank you very
16 much for your time, your effort, your sacrifice. I know it
17 takes a lot for people who interrupt their lives in order to
18 help us in court, but I think it's pretty obvious that we
19 wouldn't be able to run the criminal justice system if it
20 weren't for people that were willing to discharge their civic
21 duty as you have. It was nice to meet you all. I hope you have
22 a great day.

23 (The following proceedings were had in open court, out of
24 the presence and hearing of the jury:)

25 THE COURT: All right. I think I can get the jurors

1 back by 3:30. Can we be ready at 3:30 to open?

2 MR. KARNER: Yes, sir.

3 THE COURT: And then after opening -- I'll give my
4 preliminary instructions to the jurors, you can open, and then
5 we'll break 'til tomorrow morning at 9:00 o'clock.

6 MR. KARNER: Thank you.

7 MR. CAVER: Thank you.

8 THE COURT: Court's in recess.

9 MR. CAVER: Judge, was the court planning to rule at
10 all on the hearing we had?

11 THE COURT: Right. I'll have it uploaded by the end of
12 the day.

13 MR. CAVER: Okay. So, we won't know before we give our
14 opening.

15 THE COURT: Maybe not.

16 MR. CAVER: Okay. But the ruling is now, as it stands
17 now, I can't mention anything about that.

18 THE COURT: Right.

19 MR. CAVER: Okay. Thank you, Judge.

20 THE COURT: I'll have it to you before 5:00 o'clock.

21 MR. CAVER: I wasn't rushing the court. I just wanted
22 to be clear.

23 THE COURT: And maybe before. It just depends on how
24 much progress I can make.

25 MR. CAVER: Thank you.

1 **(Brief recess.)**

2 **THE COURT: All right. The jury is assembled. May we**
3 **bring them in, please?**

4 **(The following proceedings were had in open court, in the**
5 **presence and hearing of the jury:)**

6 **THE COURT: Hello again, everyone.**

7 **Now that you have been sworn, I will give you some**
8 **preliminary instructions to guide you in your participation in**
9 **the trial. It is your duty to determine the facts in this case.**
10 **You will then have to apply the law to those facts. You must**
11 **follow my instructions on the law whether you agree with them or**
12 **not. Nothing I say or do during the course of the trial is**
13 **intended to indicate nor should it be taken by you as indicating**
14 **what I think your verdict should be.**

15 **The evidence from which you will find the facts**
16 **consists of the testimony of the witnesses, documents, and other**
17 **things received into the record as exhibits and any facts the**
18 **lawyers stipulate to or that the court may direct you to find.**
19 **A stipulation is an agreement between the parties that certain**
20 **facts are true. You may consider these facts in arriving at**
21 **your verdict.**

22 **From time to time during the case, I may give you**
23 **instructions on the law that you are to follow and apply in**
24 **deciding the case. Statements and arguments by the lawyers are**
25 **not evidence and must not be considered by you as evidence.**

1 **Also, objections to questions are not evidence and must not be**
2 **considered by you as evidence.**

3 **Lawyers have an obligation to their clients to make an**
4 **objection when they believe evidence is being offered improperly**
5 **under the rules of evidence. You should not be influenced by**
6 **the objection itself.**

7 **If the objection is sustained, ignore the question and**
8 **do not speculate on what the witness might have said or what the**
9 **question implies. If the objection is overruled, treat the**
10 **answer like any other.**

11 **If you are instructed that some item of evidence is**
12 **received for a limited purpose only, you must follow that**
13 **instruction.**

14 **Testimony that the court excludes, strikes, or tells**
15 **you to disregard is not evidence and must not be considered by**
16 **you as evidence. You must erase such testimony from your mind.**
17 **Our system of law is based on the principle that a jury will**
18 **decide the case on the evidence and the law that is applicable**
19 **to the case, not allowing sympathy, prejudice, fear, or public**
20 **opinion to influence its decision.**

21 **There are two kinds of evidence, direct and**
22 **circumstantial. Direct evidence is the direct proof of a fact,**
23 **such as the testimony of an eyewitness. Circumstantial evidence**
24 **is the proof of facts from which you may infer or conclude that**
25 **other facts exist. The law makes no distinction as to the**

1 weight to be given either type of evidence. I will give you
2 further instructions on these, as well as other matters, at the
3 end of the case, but remember you may consider both types of
4 evidence.

5 It will be up to you to decide which witnesses to
6 believe, which witnesses not to believe, and how much of any
7 witness' testimony to accept or reject. I will give you some
8 guidelines for determining the credibility of witnesses at the
9 end of the case.

10 As you know, this is a criminal case. There are
11 certain basic rules about a criminal case that you must keep in
12 mind. A defendant is presumed innocent until proven guilty.
13 The superseding indictment against a defendant brought by the
14 government is only an accusation, nothing more. It is not proof
15 of guilt or anything else. A defendant, therefore, starts with
16 a clean slate. The burden of proof is on the government
17 throughout the case. The government must prove a defendant's
18 guilt beyond a reasonable doubt. A defendant has no burden to
19 prove his innocence or to present any evidence.

20 Let me make a few comments about your conduct as
21 jurors. During the trial you are not to discuss the case among
22 yourselves or with anyone else or permit anyone to discuss it in
23 your presence. When you retire to the jury room at the end of
24 the case to deliberate on your verdict, you will discuss the
25 case with the other jurors, but outside of your deliberations,

1 you simply are not to talk to anyone about this case. This
2 includes your fellow jurors, your spouses, members of your
3 family and friends, any close confidantes that you may have.
4 Any other person is prohibited from having any communication
5 with you about this trial outside the courtroom

6 When you are not in the courtroom, you must not allow
7 anyone to communicate with you about the case or give you any
8 information about the case. If someone tries to communicate
9 with you or if you overhear or learn any information about the
10 case, you must report that to me promptly. You may tell your
11 family and your employer that you are sitting on a jury so that
12 you can explain that you have to be here in court. However, you
13 must not communicate with them about the case until you have
14 returned your verdict.

15 All of the information that you will need to decide the
16 case will be presented here in court. You may not look up,
17 obtain, or consider information from any outside source,
18 including research regarding the individuals involved in the
19 case.

20 When I say you may not obtain or consider any
21 information from outside sources and may not communicate with
22 anyone about the case, I am referring to any and all means by
23 which people communicate or obtain information. This includes,
24 for example, face-to-face conversations, doing research, reading
25 dictionaries, reference, or other written materials, watching or

1 listening to reports in the news media, and using any electronic
2 device or media, such as a cell phone, smart phone, iPhone,
3 BlackBerry, or similar device, a computer, the Internet, e-mail,
4 text messaging, chat rooms, blogs, social networking websites
5 like Facebook, Twitter, or YouTube, or any other source of
6 information or communication at all.

7 If you hear, see, or receive any information about the
8 case by these or any other means, report that to me immediately.
9 There are two reasons for these rules. First, it would not be
10 fair to the parties in the case for you to consider information
11 or communicate information about the case to others. Second,
12 outside information may be incorrect or misleading.

13 Do not make any independent investigation of the case
14 by attempting any testing or going to any location where any of
15 the events in this case took place. If you recognize a witness,
16 advise the court security officer immediately.

17 Finally, do not form any opinion until all the evidence
18 has been presented, the attorneys have made their arguments, and
19 I have instructed you on the law you are to follow and apply in
20 making your decision. Keep an open mind until you start your
21 deliberation at the end of the case. If any juror violates any
22 of these rules, please report that to me immediately.

23 You may choose to take notes during the course of this
24 trial. You do not have to take notes. That is entirely up to
25 you. I have no preference one way or the other. You may use

1 your notes to refresh your memory at the appropriate time. Your
2 notes are for your own use only, not for any other juror's use.
3 No one will be allowed to look at your notes. You should rely
4 on your own memory of the evidence. This is so even if you or
5 someone else's notes conflict with your memory. I meant to say
6 this is so even if your notes or someone else's notes conflict
7 with your memory. Just because a juror has taken notes does not
8 mean his or her memory of the evidence has any more weight or
9 significance than the memory of a juror who has not taken notes.

10 Until you retire to the jury room to deliberate on your
11 verdict, your notes will not leave this courtroom. At the end
12 of the trial when you are discharged from further service in the
13 case, your notes will be collected and destroyed. No one will
14 be allowed to look at your notes before they are destroyed.

15 During the trial it may be necessary for me to confer
16 with the attorneys out of your hearing in respect to matters of
17 law and in respect to other matters that require consideration
18 by the court alone. I will either send you back to the jury
19 room or listen to the attorneys in the courtroom, but not within
20 your hearing.

21 When such conferences occur, they will be conducted so
22 as to consume as little of your time as may be consistent with
23 an orderly and fair disposition of this case. In order to
24 conserve juror time, we frequently have these conferences when
25 you are not in the courtroom at the beginning and the end of the

1 court day.

2 If at any time you cannot hear what is being said in
3 court, please let me know immediately by raising your hand or
4 getting my attention by some other means. I will have a
5 statement repeated, or I will have the court reporter read the
6 statement back to you. It is important that you hear everything
7 that is said.

8 Jurors are not permitted to ask questions of the
9 witness. Please do not talk among yourselves during proceedings
10 in court.

11 I also ask that you do not have any contact with the
12 lawyers in this case or with any of the parties or witnesses.
13 This includes any kind of conversation. I have asked the
14 lawyers not to communicate with you. So, if you see them around
15 the building and if they don't talk to you, please don't think
16 they are being rude, insensitive, impolite, or disrespectful.
17 They are merely following my instructions.

18 The trial will now begin. First the government will
19 make an opening statement. Next the defense attorney may, but
20 does not have to make an opening statement. Opening statements
21 are simply an outline to determine or to help you understand the
22 evidence. They are not evidence. They are not your instruction
23 on the law. The government will then call its witnesses, and
24 counsel for the defendant may cross-examine them. Following the
25 government's case, the defendant may, if he wishes, call

Karner - Opening Statement

1 witnesses whom the government can cross examine. After all the
2 evidence has been presented, the attorneys will give their
3 closing arguments to summarize and interpret the evidence for
4 you, and I will instruct you on the law. After that, you will
5 retire to deliberate on your verdict.

6 Please listen carefully to the witnesses when they
7 testify. Although the court reporter is taking notes now, these
8 are not immediately available in a verbatim transcript, and,
9 therefore, you must remember the testimony for your
10 deliberations at the end of the case.

11 If you wish to take notes, the court security officer
12 will give you a notebook. If you take a notebook, please write
13 your name on the cover and place them on your seat whenever you
14 leave the courtroom Mr. Ferguson.

15 (Brief pause.)

16 THE COURT: Mr. Karner, you may open.

17 MR. KARNER: Thank you.

18 **OPENING STATEMENT ON BEHALF OF THE GOVERNMENT**

19 MR. KARNER: Your Honor, counsel, Joe, Dan, ladies and
20 gentlemen of the jury. On a summer night in 2011, July of 2011,
21 two Rockford Police plain-clothes detectives found themselves in
22 the right place at the right time. You see, they conducted a
23 traffic stop on the defendant, and they found him in possession
24 of multiple packets of crack cocaine, 1.2 grams of crack
25 cocaine, and they found him in possession with the tools of the

Karner - Opening Statement

1 drug dealer's trade, a gun to protect his operation, his
2 inventory, and his proceeds, a cell phone to make sales calls
3 and market his business, and \$260 in cash, the profits of the
4 drug dealer's trade.

5 By catching the defendant with these items, the
6 officers will present to you evidence that shows that the
7 defendant committed the crime of possessing with intent to
8 distribute cocaine base, another way of saying crack cocaine,
9 possession of a firearm as a felon, and possession of a firearm
10 in furtherance of a drug trafficking crime.

11 To understand a little bit about where defendant was
12 found with these items, he was stopped in a residential
13 neighborhood just a few miles from the courthouse in the
14 southeast quadrant of Rockford.

15 You're going to learn about some people, many people in
16 this case, one of whom the most important of whom is a veteran
17 Rockford detective named Maurice Pruitt. Detective Pruitt saw,
18 heard, and felt the defendant do everything he could to distance
19 himself between himself and this evidence, giving you subtle
20 clues about what was in his mind at the time he encountered the
21 police because it was Detective Pruitt who saw the defendant
22 reach in an area where that handgun was. It was Detective
23 Pruitt who ordered the defendant to stay in his car, and the
24 defendant refused. It was Detective Pruitt who saw the
25 defendant quickly roll up his driver's side window, quickly

Karner - Opening Statement

1 close it, and quickly lock the door, to do everything he could
2 to prevent those officers from going in and searching the inside
3 of his car. And it was Detective Pruitt who heard the defendant
4 lie about the reason for pulling into a certain driveway.

5 And you're going to learn about the defendant, who at
6 the time on July 6th, 2011, was a convicted felon, and he was
7 alone in this car, and he was alone in that car with crack
8 cocaine and the tools of the drug dealing trade.

9 Now, how is it that we come to be here today. On
10 July 6th Detective Pruitt was working plain-clothes. He had a
11 windbreaker on that showed he was a police officer, but he was
12 in an unmarked car with his partner, Kevin Nordberg. It was
13 shortly before 7:30 that night. They were just on routine
14 patrol in southeast Rockford in their unmarked car. They had
15 heard a call go out of an unrelated armed robbery very close to
16 them and they found themselves facing northbound on 8th Street
17 at the intersection of 8th Street and 10th Avenue in Rockford.
18 And they came up to the stop sign, and as they were facing
19 northbound, they see a Chevy Impala cross the intersection from
20 them headed southbound coming towards them or facing towards
21 them on 8th Street.

22 Detective Nordberg recognized this car from an
23 unrelated investigation that he had conducted just as recently
24 as the night before. And so, he made a mental note of that, and
25 he saw the car make a left-hand turn right in front of him and

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1 go eastbound on 10th Avenue. They decide to follow the car, and
2 they pulled in behind it and watched as the car quickly turned
3 into a residential driveway without signaling. Well, that's a
4 traffic offense. And so, they activated the squad car's lights,
5 and they began one of the dangerous tasks of being a police
6 officer, and that is approaching this car not knowing what was
7 ahead.

8 Detective Nordberg took up a tactical position at the
9 back of the car, while Detective Pruitt approached the driver's
10 side window. And as he approached the driver's side window, he
11 saw the lone occupant, the defendant, in the driver's seat, and
12 he was bending over with his right shoulder as if to place
13 something underneath the driver's seat of the car.

14 He walked up, and the window was down, and the
15 defendant -- or I'm sorry -- yeah. The defendant tried quickly
16 rolling up the window, while opening the door and trying to get
17 out of the car. Pruitt, for his safety, told the defendant to
18 stay in the car. The defendant said, "Why? I'm just trying to
19 go in my house." Well, as the police would learn later, that
20 was a lie. He didn't live at this address. Pruitt said,
21 "Please just stay in the car." The defendant got out.

22 Well, the defendant's much taller than Officer Pruitt,
23 and Pruitt was on alert, and as the defendant got out of the
24 car, he saw a police officer's worst nightmare. He saw the
25 barrel of that handgun underneath -- protruding a little bit out

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1 from underneath the driver's seat of the car. He alerted his
2 partner to what he saw.

3 And the defendant quickly closed the door and locked
4 the door so that he was trying to prevent Pruitt from getting
5 into the car. Pruitt told him to face the car and stood between
6 the -- he positioned himself on one side of the defendant, using
7 the car as a way to corral the defendant on the other side, and
8 tried to get the defendant handcuffed. And police officers will
9 tell you, especially experienced ones, they can tell when a
10 person's going to resist by the way they tense their muscles,
11 and he felt, Pruitt did, when he tried to handcuff the
12 defendant, the defendant tense his muscles, and he tried to
13 handcuff the defendant so that Detective Pruitt and his partner,
14 Nordberg, could be safe. But the defendant wouldn't have any of
15 it. He didn't flail. He didn't try and strike the officers.
16 He tensed his muscles in a way to prevent him from being
17 handcuffed.

18 Nordberg came over to assist Pruitt, and it took both
19 of them to finally get the defendant handcuffed. And even after
20 he was handcuffed, they asked for the keys to his car so they
21 could search it and recover the handgun, but defendant wouldn't
22 give it up. Finally, after persistent request after persistent
23 request, the defendant gave up the keys and was secured in a
24 nearby squad car.

25 The officers searched the car, and what they found in

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1 the center console were eight packets of crack cocaine, and what
2 they found underneath the driver's seat of the car -- and, your
3 Honor, this gun is unloaded and safe, I should inform the
4 court -- they found this handgun with the barrel sticking out
5 from underneath the seat.

6 The defendant had \$260 in cash on him, and he had the
7 cellular phone on him. The investigators continued to
8 investigate the case, and they searched the phone for the
9 evidence of any text messages, and what they found were a series
10 of text messages that made it clear the person in possession of
11 that phone was a drug dealer because people sending messages to
12 this phone commented as recently as the day before the
13 defendant's arrest, one phone sent a text message to the
14 defendant's phone that said, "That was some good," and I'm using
15 their wording, "shit." Another text message said, "I will pay
16 you Friday night for sure, and if you have good shit, I'll buy
17 more, too." And yet another text message said, "All right. You
18 should do me a 40, though, if possible." And two others sent on
19 July 5th said, quote, "How much is the prices? I get paid
20 Friday. You front me?" And you will learn from an expert in
21 drug trafficking that to front is to advance or deliver drugs
22 with a promise of future payment, loan him drugs, because drug
23 users don't always manage their money properly.

24 That's the evidence you're going to hear presented
25 tomorrow. We expect to wrap up our case in one day. And then

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1 the case -- you'll get the case as a jury, and we'll ask that
2 you find the defendant guilty of all three charges in the
3 superseding indictment. Thank you.

4 THE COURT: Mr. Caver.

5 OPENING STATEMENT ON BEHALF OF THE DEFENDANT

6 MR. CAVER: Thank you, Judge Kapala. Mr. Poke,
7 counsel, Agent Ivancich. This case is important about what
8 you're going to hear, just as it's important about what you're
9 not going to hear. I want you to listen very carefully to the
10 evidence and testimony in this case. The court will instruct
11 you on the law at the end. There's some things that we're going
12 to talk about in this case that none of us want to have
13 information about, none of us really enjoy talking about.

14 One of the things that I would note that wasn't
15 mentioned by the government is some of the history about
16 Detective Pruitt. Detective Pruitt is a veteran Rockford police
17 detective. We're not going to make a big deal about it, I'm not
18 going to spend too much time on it, but you are going to hear
19 that Detective Pruitt was at one point disciplined for
20 dishonesty.

21 Why is that important as you sit here today? Because
22 the life of a person is in your hands today and will be
23 throughout this case. You sit in judgment. You must listen to
24 the evidence and the testimony, and you also are going to be
25 charged by the court to make a determination of character.

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1 **Mr. Poke was a victim of a crime and suffered serious**
2 **injury as a result. He's lost a large portion of the**
3 **functioning of his arm. You're going to hear testimony from**
4 **Detective Pruitt, the same Detective Pruitt I told you about**
5 **before, and you're going to hear a story by Detective Pruitt**
6 **about how my client, given his physical limitations, was able to**
7 **do a number of things in a very short period of time.**

8 **You're also going to hear that Detective Pruitt didn't**
9 **care how the defendant, Mr. Poke, was pulled over and**
10 **questioned. He didn't care how that happened. But you're going**
11 **to hear that Detective Pruitt was going to make sure that**
12 **happened one way or the other. You're going to hear that, sure,**
13 **the reason that Detective Pruitt is going to testify that he did**
14 **pull the car over was because he failed to use a turn signal to**
15 **turn into a driveway. I want you to think about that. This man**
16 **in Rockford, Illinois, was pulled over, according to Detective**
17 **Pruitt, because he didn't use a turn signal when he turned into**
18 **a driveway. That's going to be part of the story that Detective**
19 **Pruitt is going to tell you.**

20 **Another part of the story is that in the span of a**
21 **period of time that it took Detective Pruitt to get out of his**
22 **vehicle shortly after Mr. Poke pulled into the driveway,**
23 **Mr. Poke was able to do a number of things. With significant**
24 **limitations physically, Mr. Poke was able to put something in**
25 **the center console of the car. Mr. Poke was able to reach down**

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1 and fiddle with the gun, the barrel of which was sticking out,
2 not the hand piece. He was also able to roll up the window.
3 Whether he did it with his hand or he reached around with his
4 right hand, he was able to do all of these things in just a
5 couple of moment's time. And I'm going to want you to listen to
6 that same Detective Pruitt I was telling you about before. I
7 want you to listen very carefully to what he says.

8 You're also going to hear testimony from Detective
9 Pruitt, the same one I told you about before, concerning what
10 was found on the floorboard of that vehicle that night Mr. Poke
11 was pulled over for not using a turn signal to turn into a
12 driveway. You're going to hear testimony from that same
13 Detective Pruitt that a cell phone was located, and it was not
14 located on him. In fact, you're going to see a photograph, and
15 you're not going to see any cell phone in that car. You're
16 going to hear Detective Pruitt say a cell phone was recovered.

17 You're also going to hear that it's Rockford Police
18 policy and procedure not to touch anything on a crime scene, an
19 alleged crime scene, without first photographing it. You're
20 going to hear from Rockford Police Detective David Cone. David
21 Cone came and took more photographs at that scene. You're going
22 to see those photographs, and you're not going to see those
23 photographs match the testimony of some of the other officers.
24 You're going to hear that the reports written do not match up to
25 what was photographed in that car on that floorboard on that

Caver - Opening Statement

1 day. You're going to hear that from this same Detective Pruitt
2 that I was telling you about before.

3 The government in this case and in any criminal case
4 has the burden of proof. That means as Mr. Poke sits here
5 today, ladies and gentlemen, he is not guilty of anything. The
6 government has to show you through credible witness testimony --
7 and that means credible witness testimony from everyone,
8 including police officers -- that Mr. Poke is guilty beyond a
9 reasonable doubt. The government has this burden throughout the
10 entire case that you're going to hear.

11 What won't you hear about it? You're going to hear how
12 clearly that same Detective Pruitt I was telling you about
13 before saw the barrel of a gun sitting on the floorboard of that
14 car. You won't hear any scientific testimony about it. You
15 won't hear about any fingerprints. You won't hear about any
16 DNA. This gun that apparently was being used in furtherance of
17 a drug trafficking conspiracy doesn't have any latent prints.
18 It doesn't have any prints at all. It doesn't have any DNA on
19 it.

20 The burden of proof remains with the government, ladies
21 and gentlemen. It's their job to show you beyond a reasonable
22 doubt that somebody committed a crime. What you won't hear is
23 you won't hear anything from the government about how Mr. Poke
24 knew that there was a gun in that car. You're going to hear
25 that the drugs belonged to Mr. Poke. But, again, ladies and

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1 gentlemen, the burden of proof requires evidence beyond a
2 reasonable doubt that Mr. Poke was guilty. And you're not going
3 to hear one single piece of evidence that Mr. Poke ever touched
4 or knew that that gun was present in that car on July 6th, 2012.
5 And, yes, Mr. Poke does require the same burden of proof and the
6 same responsibility by the prosecution to prove this case beyond
7 a reasonable doubt, and if the prosecution doesn't do that, then
8 you cannot find Mr. Poke guilty of anything.

9 As I said before, this case is going to be as much
10 about what you hear as what you don't, and that same Detective
11 Pruitt that I was telling you about before and some of those
12 things that we don't want to talk about because we don't want to
13 acknowledge them you're going to be hearing these things from
14 his mouth because he was the first one on the scene, and he was
15 the first one who was determined to pull Mr. Poke over,
16 regardless of how that happened.

17 You're going to hear that it's common knowledge in the
18 Rockford Police Department that there is a no chase policy.
19 You're going to hear that part of the policy and procedures of
20 the Rockford Police Department is that they don't chase people
21 in high speed chases. They just don't. And we can all
22 speculate as to why that's the case, but they have a no chase
23 policy. You're going to hear that Mr. Poke knew that they had a
24 no chase policy.

25 The prosecution talks about that same Detective Pruitt

Caver - Opening Statement

1 I was telling you about before being at the right place at the
2 right time to catch a drug conspiracy right in the midst.

3 Ladies and gentlemen, I submit to you there's some people that
4 were born at night, but just not last night.

5 MR. KARNER: Judge, I object. It's argument.

6 THE COURT: Overruled.

7 MR. CAVER: You're going to hear Mr. Poke knew that
8 there was a no chase policy. It's common knowledge. Why would
9 Mr. Poke have stopped his car? Why? Why wouldn't he have just
10 driven off? 8th Street and 10th Avenue? He could have gone
11 anywhere. It doesn't add up.

12 You're going to hear that the drugs belonged to
13 Mr. Poke. Mr. Poke had a history of using drugs, and they were
14 his. You're not going to hear any evidence that Mr. Poke ever
15 handled or knew that that firearm was in that car on that day.

16 Please hold the government to its burden of proof
17 according to the law as the judge will instruct you, and I
18 believe at the conclusion of the evidence and testimony in this
19 case, each and every one of you will return the right verdict
20 and the only verdict that will be supported by the evidence,
21 which is a verdict of not guilty with respect to possession of a
22 firearm in furtherance of a drug conspiracy or possession of
23 that firearm And I want you to listen very carefully when you
24 listen to the evidence from that same Detective Pruitt that we
25 talked about before. Thank you.

1 **THE COURT:** Mr. Karner, you have some stipulations?

2 **MR. KARNER:** Judge, I'd ask leave to read those
3 tomorrow when we begin the evidence.

4 **THE COURT:** All right. Folks, I'm going to release you
5 'til tomorrow morning. Again, until you retire to the jury room
6 at the end of the case to deliberate on your verdict, you must
7 not discuss the case among yourselves or with anyone else or
8 permit anyone to discuss it in your presence. You must not read
9 any newspaper articles or listen to any radio or television
10 broadcasts relating to this case.

11 Do not make any independent investigation of the case
12 by reading materials, doing any research, attempting any
13 testing, or going to any location where any of the events in
14 this case took place. If anyone contacts you or attempts to do
15 so, either directly or indirectly, about this case, report that
16 to me immediately.

17 I'll need you available to come into the courtroom at
18 9:00 o'clock tomorrow morning. That's when we're going to start
19 with witnesses. If you wish, you can come here a little
20 earlier. The Clerk's Office provides complimentary coffee and
21 donuts and rolls for jurors. They'll have that for you at 8:30
22 in a place indicated by Mr. Ferguson. If you wish to take
23 advantage of that, you're welcome to come in and have a cup of
24 coffee on the Clerk's Office, but, if not, I certainly need you
25 here at 9:00 o'clock so we can start. It's important for you

1 all to assemble at the times that we indicate so we don't have
2 to delay anything any more than we have to.

3 Have a nice night. I'll see you tomorrow morning.
4 Leave your notebooks on your chairs whenever you leave, now and
5 every other time you leave the courtroom. The only time you'll
6 be allowed to take those out of the courtroom is when you are
7 released to deliberate, and then, of course, you'll need your
8 notes with you to aid you in your deliberation.

9 (The following proceedings were had in open court, out of
10 the presence and hearing of the jury:)

11 THE COURT: 9:00 o'clock.

12 MR. KARNER: Yes, sir. We'll be here.

13 I wanted to bring up a matter. I think it was
14 inappropriate in opening statement for the defendant's lawyer to
15 bring up or to make an issue of the subjective motivation of
16 Detective Pruitt in doing the stop. That's not relevant.

17 MR. CAVER: With all due respect to the government, the
18 government's opening statement was replete with instances of my
19 client -- what was in my client's head, talking about the drug
20 conspiracy and what my client was thinking and why he was
21 possessing the things that he did. I didn't object because I
22 didn't feel that I wanted to lose any credibility with the jury,
23 but let's call a spade a spade.

24 MR. KARNER: Well, I don't know what that means, Judge,
25 but one of the elements -- my comments about what the defendant

1 was thinking and the circumstantial evidence of the defendant's
2 state of mind are elements of the offense. Those are by
3 definition relevant. 180 degrees to talk about the subject of
4 motivation, which even in a suppression hearing is not relevant,
5 but especially in the trial is not relevant. Total different
6 concepts. Elements of the offenses versus not.

7 THE COURT: Does it have some connection with the
8 credibility, the believability of the witness who testifies?

9 MR. KARNER: No, Judge, and you've already made that
10 finding in the suppression hearing that it was credible. No,
11 absolutely not. The question is did they see a traffic signal
12 or not. Both him and Nordberg will testify that no traffic
13 signal was made. It's a question of fact of whether or not the
14 signal was made, not the officers' subjective intention. That's
15 not relevant.

16 THE COURT: All right. Well, brief it for me, if you
17 wish, give me some authority, and I'll make a decision on this
18 going forward. I will instruct the jury at the close of the
19 case that what is said during opening statements is not
20 evidence. If you think this requires for me to admonish them to
21 tell them to disregard some part of Mr. Caver's opening
22 statement, I'll consider that. I really don't know what relief
23 you're asking for at this point.

24 MR. KARNER: To prevent any questioning, any further
25 comment from this point going forward. For instance, going into

1 it with Detective Pruitt.

2 MR. CAVER: So, to prevent any questioning whatsoever
3 concerning the reason why Detective Pruitt pulled over Dayton
4 Poke that evening?

5 MR. KARNER: Well, he can go into the traffic stop, but
6 anything beyond that. I mean, the failure to signal, any other
7 subjective motive.

8 MR. PEDERSEN: The motive of the officer looking for a
9 traffic violation is irrelevant, and the tone of his opening
10 statement is that he's going to ask Detective Pruitt questions
11 about why he wanted to pull that car over beyond a traffic
12 violation.

13 THE COURT: But wait. He can ask him why he pulled him
14 over. He pulled it over because he didn't signal before going
15 into a driveway.

16 MR. PEDERSEN: Right, but the motive -- he wants to go
17 into the motive of why Detective Pruitt was looking for a
18 traffic violation, and that's not relevant to any of the issues
19 in this case.

20 MR. KARNER: The reason this comes up, in the
21 transcript from the motion to suppress, Mr. Byrd was allowed to
22 question Detective Pruitt about his subjective motives. You
23 know, I think he was cut off at some point, and I think my
24 objection was sustained, and we did have a discussion about the
25 subjective motive of the officer being irrelevant for the

1 purposes of the suppression issue before the court. And if it's
2 irrelevant then, it's ten times irrelevant now.

3 THE COURT: All right. I believe that the subjective
4 motivation of the officer which prompted him to make the stop is
5 irrelevant, but the factual circumstances regarding the stop are
6 certainly admissible.

7 MR. KARNER: Sure.

8 THE COURT: But you have a different take on this,
9 Mr. Caver?

10 MR. CAVER: Just briefly. We have -- Detective Pruitt
11 was at the right place at the right time according to the
12 prosecution, the government, because he happened to be
13 investigating some sort of other crime. I believe the testimony
14 is going to show that the reason this car was even on the radar
15 screen by the detectives was because of previous involvement.
16 The night before it had been surveilled, and that's why they
17 were looking at the car because they thought Clifford Horton
18 might be in the car.

19 MR. KARNER: And that's only -- that's -- boy, I don't
20 know that the -- not to tell them their business, but, you know,
21 that's going into a dangerous area because that investigation --
22 and just so the court knows, we've instructed our witnesses
23 unless pressed by the defense not to volunteer the fact that,
24 yeah, that car first appeared on their radar in a murder
25 investigation. Should that really be injected into this case?

1 **MR. CAVER:** What the government is arguing is that the
2 subjective intent of the detective was irrelevant at the time
3 Mr. Poke was pulled over. We can all pretend that fiction is
4 actually the case. And if that's what the government is
5 requiring me to do, then -- and that's supported by the law and
6 that's the court's ruling, obviously I will abide by any ruling
7 of the court. But to pretend that Mr. Poke was pulled over for
8 failing to signal in that vehicle to turn into that driveway, if
9 the court rules that that is required by the law and that there
10 will be no further questioning into that subjective motivation,
11 obviously I will abide by the court's ruling, but that's a
12 fiction.

13 **THE COURT:** All right. Well, we indulge ourselves in a
14 lot of fictions when we try criminal cases. But my
15 understanding of the law is that the subjective motivation of
16 the officer for making the stop is irrelevant. If you think
17 that I'm wrong about that or if you think there are exceptions
18 that apply to this case, I'll be glad to look at those.

19 **MR. CAVER:** Thank you, Judge.

20 **THE COURT:** You're welcome.

21 (Whereupon, the within trial was adjourned to Tuesday,
22 May 7, 2013, at 9:00 o'clock a.m.)